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ABSTRACT

This document reports on a state (Maine) legislative task force evaluation of the efficiency and effectiveness of the educational program and governance system of the Governor Baxter School for the Deaf in the context of the range of alternative educational models and placements available. Conclusions and recommendations are organized into the following categories: public policy on delivery of educational programs and services; governance system for the array of instructional programs; and powers and duties of the governing board. Major recommendations include: (1) recognition of the array of programs and services delivered to deaf and hard-of-hearing students in accordance with Federal and State law; (2) compliance with legal requirements and policy standards for educational programs for deaf and hard-of-hearing students; (3) participation in and support for newborn screening programs; (4) transition to a redesigned governance system; (5) development of a cohesive program delivery system; (6) development of program placement options and related instructional philosophies; (7) provision of adequate public funds, financial support, and accountability; and (8) restructuring of the governing board. Eleven appendices provide supporting information such as the enabling legislation, task force membership, examples of governance structures, and per pupil costs at the school. (DB)

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STATE OF MAINE
119TH LEGISLATURE
FIRST REGULAR SESSION

Final Report
of the

TASK FORCE TO REVIEW THE EDUCATIONAL PROGRAM AND THE GOVERNANCE SYSTEM OF THE GOVERNOR BAXTER SCHOOL FOR THE DEAF

February 2000

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Sen. Sharon Treat, Co-Chair
Rep. Elizabeth Watson, Co-Chair
Sen. Georgette Berube
Sen. Marge Kilkelly
Sen. Mary Small
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TASK FORCE TO REVIEW THE EDUCATIONAL PROGRAM AND THE GOVERNANCE SYSTEM OF THE GOVERNOR BAXTER SCHOOL FOR THE DEAF

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Executive Summary

Joint Study Order H. P. 1587 was passed by the Legislature on June 5, 1999. It established the Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf (GBSD or Baxter School), a 14 member Task Force co-chaired by Senator Sharon Treat and Representative Elizabeth Watson. The duties of the Task Force were to review the efficiency and effectiveness of the educational program at the GBSD in the context of the range of alternative educational models and placements that are available in other states to deliver appropriate educational programs and services that meet the unique educational needs of children and youth who are deaf and hard-of-hearing; and if necessary:

(1) Redefine the basic structure of the governance system, including defining the respective roles and responsibilities of the GBSD School Board, school administrators and state agencies;

(2) Identify the resources needed for the school board to develop the capacity to perform functions that the school would take over from state agencies, such as personnel and budget management functions;

(3) Develop a plan to address the findings and recommendations from the Department of Education's (DOE) Basic School Approval review conducted in December, 1998; and to conduct any other necessary reviews and develop a plan to address the results of these reviews;

(4) Consult with GBSD employees and their representatives so that their interests can be taken into account in designing a new governance system;

(5) Develop strategies for properly balancing the protection of and public access to the natural resources of the island with the need for managing the state-owned facilities under the provisions of the deed from Governor Baxter granting Mackworth Island to the State; and

(6) Establish benchmarks to measure the school's progress toward a more efficient and effective governance system and require that the consultant to the Task Force, the GBSD and the DOE make progress reports to interested parties, including the Legislative committee with jurisdiction over education matters.

The Task Force familiarized itself with the current system for governing the Baxter School, including the roles of the GBSD School Board, the DOE and other state agencies; as well as the requirements in federal and State law that govern the placement of deaf and hard-of-hearing students. The Task Force was also informed about the corrective action plan developed by the GBSD in response to the findings and recommendations from the Review Committee report compiled by the Department of Education (DOE) regarding Basic School Approval. After receiving public testimony and following several panel discussions involving GBSD School Board members, the superintendent and administrative leadership at the Baxter School, DOE and other state agency officials, special education practitioners in the public schools, and the superintendents of two out-of-state schools for the deaf, the Task Force deliberated on these issues and came to a number of conclusion and recommendations about governance of the Baxter School and effectiveness of programs delivered to deaf and hard-of-hearing students in the State.

Conclusions

Task Force members reached consensus[*] on a number of conclusions regarding the delivery of educational programs for deaf and hard-of-hearing students in the State and the redesign of the governance system. Except where noted, conclusions and recommendations were approved by a consensus of those Task Force members present.

A. Delivery of Educational Programs and Services

With respect to the delivery of educational programs and services to deaf and hard-of-hearing students in the State, a consensus of those Task Force members present concluded that:

- The corrective action plan developed by the Baxter School in response to the Basic School Approval report articulates the actions and performance indicators that can guide the school toward school approval status and school improvement;

- Staffing levels within the Baxter School's outreach and statewide consultation services may not be adequate to ensure that deaf and hard-of-hearing students placed in local public schools are receiving appropriate outreach services;

- Deaf and hard-of-hearing students placed in local public schools may not have access to qualified educational personnel and appropriate academic support services;

- The existing programs operated by the Baxter School should be maintained for a period of two years and must include the continuation of contracted services that provide consultation, training and appropriate safeguards for students who are placed in the residential program; and

- State policymakers should focus on the statewide configuration of instructional programs that provides an appropriate array of educational placement options that

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[*] Task Force members Senator Berube, Senator Kilkelly, Senator Small and Representative Bragdon were absent from the meeting at which conclusions and recommendations were approved.

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can meet the Individual Education Program (IEP) requirements of every deaf and hard-of-hearing student.

Regarding the administration of the Baxter School's residential program and outreach services, Task Force members did not agree on the appropriate delivery system for these programs. The Task Force was divided on this issue as follows:

- A majority of the Task Force concluded that the existing "center school" programs at Mackworth Island should be upgraded to include an array of affiliated satellite programs and outreach services to be operated by the Baxter School; and

- A minority of the Task Force concluded that the reconstituted governing body should authorize the delivery of an array of community-based residential and outreach programs that are operated through a contractual relationship with public school administrative units or with private, non-profit, educational organizations.

B. Redesign of the Governance System

While unable to agree on all aspects of redesigning the existing governance system, Task Force members unanimously agreed on the following conclusions:

- The Legislature should change the governance system to a more autonomous model comparable to the governance systems established for the Maine School for Science and Mathematics and the Maine Technical College System;

- The Legislature should create a new governing board and should also specify goals and benchmarks that the GBSD School Board must achieve prior to granting greater authority to the new governing board; and

- The composition of the new governing board should also be reviewed by the Legislature; and the number of board members should be increased to involve members of the public who possess both desirable skills and knowledge that would enhance the functioning capacity of the board; and

- The process of appointing governing board members should allow the board and other interested parties to nominate potential candidates to the Governor, and should require legislative confirmation of gubernatorial nominees to the board.

Concerns regarding certain aspects of the administration of the Baxter School's residential program and outreach services prevented the Task Force from agreeing on the appropriate governance arrangement regarding these programs. As a result, the Task Force report was divided as follows:

- A majority of the Task Force concluded that the new governing board should have both the policymaking authority and the operational responsibility for delivering an array of educational programs for deaf and hard-of-hearing students in the State; and

- A minority of the Task Force concluded that the new governing board should properly balance its policymaking authority and operational responsibility with the need to ensure that appropriate educational opportunities are provided for all deaf and hard-of-hearing students, including those students placed in the "center school" programs on Mackworth Island and those students placed in community-based, residential or outreach programs.

Recommendations

The Task Force makes the following recommendations regarding the governance and delivery of instructional programs for deaf and hard-of-hearing students in the State:

A. Public Policy on Education of the Deaf and Hard-of-hearing

The Task Force recommends that the Legislature take immediate action to change the statutes regarding the role and responsibilities of the Baxter School in delivering educational programs for deaf and hard-of-hearing students in the State. The Task Force recommends that the Legislature should consider the following policy principles as guidance for state policymakers who are responsible for the planning and the delivery of instructional programs and educational services for deaf and hard-of-hearing students:

1. Recognition of the Array of Programs and Services Delivered to Deaf and Hard-of-hearing Students in Accordance with Federal and State Law

The Task Force recommends that the following array of instructional programs be recognized as essential educational placement options for the purpose of educating deaf and hard-of-hearing students in the State:

A. Local public schools or approved private schools in the State;

B. The programs operated by the GBSD located at Mackworth Island;

C. Satellite residential programs that may be offered by publicly-operated or independently-operated entities under contract with the governing board; and

D. Satellite consultation and outreach services that may be offered by publicly-operated or independently-operated entities under contract with the governing board.

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2. Legal Requirements and Policy Standards for Educational Programs for Deaf and Hard-of-hearing Students.

The Task Force also recommends that authorized programs for deaf and hard-of-hearing students not only comply with all applicable federal and state statutory requirements, but should also meet certain educational policy guidelines and accreditation standards including:

A. Federal laws and regulations, including the federal policy guidance issued in 1992 regarding consideration of each deaf and hard-of-hearing student's communication needs and social, emotional and cultural needs in the development of an IEP and the determination of a FAPE in the LRE for that student;

B. State statutes and rules, including special education laws and state standards for public schools or approved private schools;

C. Educational service guidelines that seek to ensure that every deaf or hard-of-hearing student receives direct instruction and related educational services from qualified educational support personnel; and

D. Accreditation standards from an appropriate accrediting agency.

3. Participation in and Support for Newborn Screening Programs.

The Task Force recommends that the programs within the array of instructional programs should participate in and support, as may be appropriate, the newborn hearing screening program established in the State in order to maximize the potential of an infant's communication skills, cognitive development and readiness to learn.

B. Governance System for the Array of Instructional Programs for Deaf and Hard-of-hearing Students.

The Task Force recommends that the Legislature take immediate action to change existing statutes regarding the governance system of the Baxter School. These statutory changes should include a 24-month transition period, including benchmarks and methods of assessing the capacity of the GBSD School Board to exercise genuine policymaking authority and to govern the Baxter School with substantial autonomy. The Legislature should consider the following factors in designing benchmarks and methods of assessment that can "trigger" the implementation of the new governance system:

1. Transition to a Redesigned Governance System.

The Task Force recommends that the Legislature, the Governor and the GBSD School Board work together over the next two years to implement a new governance system. Task Force members agreed that a new governance system should include a governing board empowered with genuine policymaking authority and substantial autonomy to develop educational policies for the existing the "center school" programs on Mackworth Island and the Baxter School's statewide consultation and outreach services. Task Force members did not agree on whether this reconstituted governing board should have sole authority for operating any or all affiliated instructional programs for deaf and hard-of-hearing students that may be established in the State.

The Task Force also recommends that a new governing board should be established consistent with the following:

A. The governing board should have legitimate authority to develop policies for the school and it affiliated programs that are consistent with State and federal laws and regulations;

B. The total membership of the governing board should be increased and the composition of the board should be based on skill- or knowledge-based qualifications (e.g., human resource management, financial planning and management, expertise in education of the deaf, etc.) in addition to the existing categorical criteria (e.g., representatives of parents, the Deaf community, the general public, etc.) so that the governing board as a whole sufficiently represents all categorical criteria and skill- or knowledge-based qualifications;

C. The process for appointment of governing board members should allow the governing board and other interested parties the opportunity to nominate potential board candidates to the Governor; and with the Governor having appointment authority subject to the review of, and confirmation by, the Legislature;

D. The governing board should have budget flexibility with the ability to transfer money between budget account lines as needed;

E. The governing board should have the authority to establish its own personnel management system for Baxter School personnel, including the option of separating from the state personnel classification system; and

F. Following a transition period during which the State, the GBSD School Board and the collective bargaining units of the current Baxter School employees can negotiate the necessary provisions of a new legal framework for labor relations (similar to statutory transition requirements enacted for the Maine State Retirement System and the Maine Technical College System), the governing board should have the authority to negotiate directly with collective bargaining units, including the authority to define employee benefits (e.g., health and retirement benefits) pursuant to State law and all other necessary transition requirements.

2. Cohesive Program Delivery System.

The Task Force also recommends that the governance system stakeholders develop, maintain and support the most cohesive delivery system possible for planning and providing educational opportunities through an array of instructional programs.

3. Program Placement Options and Related Instructional Philosophies.

The Task Force further recommends that the reconstituted governing body maintain a full range of program placement options and related instructional philosophies (e.g., bilingual/bicultural; cued speech, oral, etc.) that its deaf and hard-of-hearing students may require to fulfill the requirements of their IEP.

4. Public Funds, Financial Support and Accountability.

Finally, the Task Force recommends that the Legislature and the Governor provide adequate financial support to maintain high quality educational opportunities for deaf and hard-of-hearing students; and that the array of instructional programs make maximum use of federal funds available for the support of instructional programs for deaf and hard-of-hearing students. The Task Force members also recommend that the reconstituted governing body should expect appropriate public accountability for this financial support.

C. Powers and Duties of the Governing Board

The Task Force recommends that the Legislature take immediate action to change existing statutes regarding the powers and duties of the GBSD School Board, and that the powers and duties of the restructured governing board should include the following:

A. Develop and adopt policies and rules, including bylaws;

B. Oversee the administration of the array of instructional programs;

C. Oversee budget development and financial management;

D. Enter into contracts and agreements to the execute its powers;

E. Establish benchmarks and conduct local methods of assessing student academic achievement and the professional development of educational personnel;

G. Present an annual program review report to the Governor and the Legislature on the results of the assessments conducted in paragraph E and the general status of the school and its affiliated programs;

H. Present annual financial audit report to the Governor and the Legislature; and

I. Present semi-annual report to the Governor and the Legislature on the board's progress towards achieving the benchmarks and levels of policy-making and governance capacity established jointly by the GBSD School Board and state policymakers.

I. Introduction

Joint Study Order, H. P. 1587 which was passed by the Legislature on June 6, 1999, established the Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf (Task Force.) (See Appendix A) The Order required the Task Force to review the efficiency and effectiveness of the educational program at the Governor Baxter School for the Deaf (GBSD or Baxter School) in the context of the range of alternative educational models and placements that are available in other states to deliver appropriate educational programs and services that meet the unique educational needs of children and youth who are deaf and hard-of-hearing; and if necessary:

(1) Redefine the basic structure of the governance system, including defining the respective roles and responsibilities of the school board, school administrators and state agencies;

(2) Identify the resources needed for the school board to develop the capacity to perform functions that the school would take over from state agencies, such as personnel and budget management functions. If the GBSD School Board of the is to bargain directly with employee unions and is to address employee relations' issues such as grievance proceedings, the Baxter School must build the capacity to undertake these functions as well. This may involve securing additional staff for the school to strengthen its personnel management capacity;

(3) Develop a plan to address the findings and recommendations from the Department of Education's (DOE) Basic School Approval review conducted in December, 1998. Conduct any other necessary reviews, such as a comprehensive review of safety, security and welfare of students in the residential program at the school and develop a plan to address the results of these reviews;

(4) Consult with GBSD employees and their representatives so that their interests can be taken into account in designing a new governance system. Employees have an interest in the potential for changes in salary, benefits and working conditions. The Task Force must take into account existing employee rights under union contracts or state law that may impact the timing or scope of change that may occur at the school;

(5) Develop strategies for properly balancing the protection of and public access to the natural resources of the island with the need for managing the state-owned facilities under the provisions of the deed from Governor Baxter granting Mackworth Island to the State. The strategies must address what role, if any, state agencies play in managing school property and Mackworth Island, what improvements are needed in the school's physical plant, who should make the improvements and whether a state agency should continue to be involved in managing the island or only in overseeing the school's compliance with the deed; and

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(6) Establish benchmarks to measure the school's progress toward a more efficient and effective governance system and require that the consultant to the Task Force, the Baxter School and the Department of Education make progress reports to interested parties, including the Legislative committee with jurisdiction over education matters;

The Task Force was composed of 14 members, 8 members from the Legislature, including one Senator and one House member from each of the following legislative joint standing committees: Education and Cultural Affairs, Health and Human Services, Judiciary, and Agriculture, Conservation and Forestry; three members representing the Committee to-Review the GBSD Governance Structure, including two members who represented the Deaf community and one member who represented an interested party other than a state agency or the Deaf community; the Commissioner of Education or his designee; the Commissioner of Administrative and Financial Services or her designee; and the chair of the GBSD School Board or her designee. Senator Sharon Treat was appointed to serve as the Senate Chair and Representative Elizabeth Watson was appointed to serve as House chair. (See Appendix B)

A. Commission Process

The Task Force was convened on September 10, 1999. In addition to this first meeting, the Task Force held 6 other meetings. These meetings were held on October 1, 1999; October 22, 1999; November 5, 1999; November 19, 1999; January 7, 2000 and January 14, 2000. One of the meetings included a public forum, held at the GBSD, during which the public was invited to comment on the program delivery and governance systems. The Task Force enlisted the services of a consultant with expertise in deaf education to provide professional services in reviewing and analyzing the educational programs and the governance system of the Baxter School. The consultant briefed the Task Force on the recent history and current trends in deaf education and also arranged for administrative leaders in deaf education from other states to present information to the Task Force. Task Force members discussed problems, possible causes and potential solutions, reviewed the governance powers and duties of the Baxter School Board, considered the governance structures of comparable schools for the deaf in other states and held panel discussions with state agency personnel, public school special education staff and representatives of stakeholder groups and interested parties (see Appendices C, D, and E).

The first meeting of the Task Force focused on reviewing the charge to the Task Force, receiving a summary of the legislative history and background information on the Task Force and receiving various briefings related to the GBSD, including the recommendations of the 1998 GBSD Governance Review Committee and the Joint Standing Committee on Education and Cultural Affair's intent in establishing the Task Force through the passage of H. P. 1587 (see Appendix F). (For additional details of the 1998 Governance Review Committee refer to the Final Report of the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf completed December 15, 1999.) Representatives from the DOE and the GBSD provided briefings on the Basic School Approval Report, the status of the GBSD action plan and the current status of program delivery to deaf and hard of hearing children in Maine. (See Appendix G for selected excerpts from the Basic School Approval Report, including an update by the DOE).

During the remainder of the meeting, the Task Force identified major issues, developed a work plan and discussed the Task Force's goals.

The second meeting, held at the GBSD, focused on providing information to the Task Force on the current programs and operations at the GBSD. A panel of GBSD personnel presented information on the academic curriculum and programs, the outreach programs, the distance learning facilities and community relations. The Task Force was also briefed by the GBSD superintendent and business manager and a DAFS official on the GBSD operations, finances and program budgets before taking a guided tour through the distance learning site and the residential facilities.

The third meeting of the Task Force focused on receiving national perspectives on deaf education. A deaf education private consultant to the Task Force provided historical information on deaf education and then shared nationwide statistics gathered by Gallaudet Research Institute as part of their Annual Survey of Deaf and Hard-of-Hearing Children and Youth. This survey provided composite information ranging from demographic data to instructional methods used for the deaf and hard-of-hearing population of children and youth for the states that participate in this annual survey. The Task Force also heard from the Superintendent of the American School for the Deaf in Connecticut about the history, funding, governance structure and educational program there. The Task Force also continued their tour from the previous meeting, viewing the classrooms and academic facilities. In response to questions about Baxter School expenditures from the previous meeting, follow-up information was provided concerning per-pupil costs (see Appendix H). After a discussion period with the deaf education specialist and the Superintendent, the Task Force heard testimony during a public forum requesting public comment on issues related to: (1) the effectiveness of the educational programs and outreach services provided by the GBSD to deaf and hard-of-hearing students; and (2) the redesign of the governance system currently in place for the Baxter School.

The fourth meeting of the Task Force provided an opportunity for the Task Force members to receive perspectives from a variety of different stakeholders involved in deaf education. The Superintendent of the Maryland School for the Deaf spoke about the governance system and educational programs at the Maryland School for the Deaf. The Baxter School Board and the GBSD Superintendent provided information concerning the GBSD vision and the current status of educational programs and governance. A panel comprised of the Director of the Special Services Division of the Department of Education, the Director of the Bureau of Rehabilitative Services, the Director of Special Education from a public school district, and the parent of a deaf child provided background information to the Task Force and answered questions concerning public school programs for delivering educational programs for deaf and hard-of-hearing students. Next, the Task Force discussed key policy issues, such as: (1) program and placement options based on legal, political and cultural definitions of the "Least Restrictive Environment" (LRE), (2) deaf education philosophies, especially bi-cultural/bi-lingual and oral approaches, (3) governance structure impact on effective program delivery, and (4) alternative models of program delivery. Later another panel comprised of the Task Force's consultant, a specialist in deaf education, three statewide Outreach Program educational consultants from the GBSD, an Attorney from the Maine Disability Rights Center, and the Civil Rights Director from the Maine Center on Deafness discussed outreach programs as part of the educational program delivery to deaf and hard-of-hearing students.

The fifth meeting of the Task Force focused on group discussion. In previous meetings the Task Force had spent most of their time listening to presentations and receiving information from a variety of different perspectives concerning deaf education. This meeting allowed Task Force members to discuss various program and governance options and to determine support for these options. Task Force members discussed: (1) the importance of the outreach, early childhood and residential programs, (2) the value of adding satellite programs for all ages and for providing additional course offerings, especially for high school students, (3) the scope of authority, lines of reporting and composition of the school board and (4) possible scenarios incorporating these previous components into workable school models.

The sixth meeting of the Task Force was a work session focused on discussing the Task Force members' positions on the issues of governance and educational programming that had been presented at previous meetings. The Task Force heard from a consultant who had been working with the current GBSD School Board. This consultant had been working to help the GBSD School Board assess their strengths and needs, to advocate board development activities and to assist the board in developing a system that would facilitate the board's ability to evaluate their authority and responsibility and to be better equipped to deal with that responsibility. There was much discussion about the size and composition of the board and the need to establish continuity and stability in leadership, both in management positions and the on board of the GBSD.

The final Task Force meeting was a work session devoted to reviewing the Task Force's discussion from previous meetings concerning areas of agreement and disagreement regarding the GBSD governance system and educational program issues in relation to a new operating model for the school. The Task Force responded to a draft document prepared by Task Force staff that proposed language for State public policy and principles for the governance and education of deaf and hard-of-hearing students throughout the State. The Task Force used this meeting to build consensus on the broad concepts of the issues concerning the governance system and educational program and they discussed the preliminary findings and recommendations regarding the final report to be presented to the Second Regular Session of the 119th Legislature.

B. Report and Legislation

H. P. 1587 established December 3, 1999 as the date the Task Force to Review the Educational Program and Governance System of the Governor Baxter School for the Deaf should report to the Joint Standing Committee on Education and Cultural Affairs. However, the Task Force requested and received permission from the Legislative Council to extend the reporting date to January 14, 2000 and to add an additional meeting. The Task Force is authorized pursuant to H. P. 1587 to recommend legislation to the Joint Standing Committee on Education and Cultural Affairs and to recommend supplemental budget appropriations to the Joint Standing Committee on Appropriations and Financial Affairs. The Joint Standing Committee on Education and Cultural Affairs is authorized to report out any legislation during the Second Regular Session of the 119th Legislature concerning the findings and recommendations of the Task Force.

II. Background

A. History of the Governor Baxter School

Private and Special Law created the Maine School for the Deaf, predecessor of the Governor Baxter School, in 1897. This school was located in Portland and governed by a 5-member Board of Trustees, appointed by the governor, with advice and consent of the Executive Council. The Executive Council was a 7-member board elected annually by the Legislature.

Governance of the school was moved from the Board of Trustees to the state Department of Health and Welfare, Bureau of Institutional Service in 1933. The Department obtained power previously held by the Board of Trustees to employ staff and determine the educational system. By 1944, the bureau had become a separate department called the Department of Institutional Service (which regulated correctional institutions, mental hospitals, children's homes and the school for the deaf) and later the Department of Mental Health and Corrections.

The Governor Baxter School for the Deaf was created in the 1950's with a gift from former Governor Percival Baxter. In 1943, Governor Baxter deeded Mackworth Island to the State to be used for state public purposes. At that time, he had explained that the use of the island for children "would be especially pleasing." He donated $625,000 to the state in 1953 to enable the state to build a school for the deaf on Mackworth Island and a bridge connecting the island to the mainland in Falmouth. The island had been granted to the State with the conditions that it be used for state public purposes, that the State maintains the animal cemetery on the island and that the island be maintained as a sanctuary for wild animals. When the new school was created, the Department of Mental Health and Corrections was in charge of school governance.

In 1972, the Baxter School was placed under jurisdiction of the Department of Education (DOE), and a 1975 revision of state law specifically gave the department power to employ staff and determine the educational program for the school. A 7-member Policy Review Board was created in 1983 to advise the commissioner and the school's superintendent on policy issues, to review development and implementation of policy by the superintendent and commissioner, to review staff recruitment, retention, promotion and evaluation and to meet with parents, students and other interested parties to solicit opinions about the school. The governor appointed the board.

In 1994, the Legislature created a 10-member committee to study the administrative structure, operations and physical plant of the school and to make recommendations for improved operations and management of the school. Although the recommendation of the committee regarding governance of the school was not adopted in full, some change in governance structure did occur. A school board was created and given authority to manage the school. The DOE provided administrative assistance pursuant to a written agreement, but had no authority or responsibility for operation of the school.

In 1996, legislation enacted by the Legislature changed the governance structure of the Governor Baxter School for the Deaf. Public Law 1995, chapter 676, (also known as Legislative

Document 505, An Act to Implement the Recommendations of the Committee to Study the Operations of the Governor Baxter School for the Deaf), shifted the authority to administer operations of the GBSD from the DOE to a newly-created School Board at the Baxter School. As part of that law, the Joint Standing Committee on Education and Cultural Affairs (Education Committee) was authorized to establish a committee to review the transition to a new governance structure for the GBSD and to report back to the Education Committee by December 15, 1998.

In 1998, the Education Committee established the GBSD Governance Review Committee (Review Committee) in accordance with Public Law 1995, chapter 676. The Review Committee discussions revealed several aspects of the governance system that make it difficult for the school to efficiently and effectively provide the best programs possible: the complexity and inflexibility of state personnel systems, the division of authority over property management, the lack of authority for the school board to use funds to provide needed services and the need to request state funds two school years before actual budget needs are known. The Review Committee concluded that some steps could be taken within the existing governance system to solve some of the school's most immediate personnel and budget problems; and that, even with some tailoring, the existing governance system could not be made to entirely fit the school board's need to effectively and efficiently govern the school. The Review Committee recommended that a new governance system must be created to give the school greater autonomy in managing its affairs; however, committee members did not reach consensus as to the exact composition of a new governance system or the range of educational programs that should be administered by this system. The Review Committee also recommended that a separate study group be established to redesign the new governance system. In 1999, the Legislature passed Joint Study Order H. P. 1587 and established the Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf.

B. Current Governance of the GBSD

Under current law, authority over important issues affecting the Baxter School is divided among the school board and a number of state agencies, including the Department of Education, the Department of Administrative and Financial Services, the Department of the Attorney General and the Department of Conservation (see Appendix I).

School Board of the Governor Baxter School for the Deaf. The school board has 13 voting members and 2 nonvoting members, all appointed by the governor. Membership on the school board includes parents of students at the school, deaf representatives of the State's Deaf community, persons with experience in deaf education, members of the general public, students who are nonvoting members and a parent of a child in the outreach program. Currently, the board meets twice a month.

By law, the school board has power to adopt policy for operation of the school, hire a superintendent, prepare an annual budget and exercise budgetary responsibility and create, maintain and expand programs at the school. However, few of those powers are exercised without the approval, agreement or involvement of one or more state agencies as shown by the chart in Appendix C.

Department of Education. The Department of Education is not directly involved in governance of the school. In contrast to its role prior to the passage of P. L. 1995, c. 676, the Department has no authority over employment of teachers and other employees or the course of study to be pursued at the school. The Department is directed by state law to provide administrative assistance to the school by reviewing and forwarding personnel and budget documents to the appropriate state agency. This assistance is given pursuant to an administrative agreement that expired June 30, 1999. In addition, pursuant to the collective bargaining agreement, the Department of Education works to resolve employee grievances under the collective bargaining contract.

The Department also regulates Baxter School operations through its statewide role in setting teacher certification requirements and oversight of special education programs. The Department is the agency responsible under federal law for ensuring that schools comply with the requirements of the Individuals with Disabilities Education Act (IDEA). IDEA is the law that requires educational agencies to provide deaf and hard-of-hearing children with a "free appropriate public education" in the "least restrictive environment."

Department of Administrative and Financial Services. The Department of Administrative and Financial Services provides personnel, purchasing, employee benefit, budgetary and other administrative services to all state executive agencies.

- Bureau of Human Resources (BHR) -- The employees of GBSD are state employees, subject to the Civil Service laws, the state job classification system and the state compensation plan. This means that the BHR categorizes, evaluates and assigns each position to a pay range in the state compensation system. This classification and compensation system is the state's attempt to ensure consistency in pay across state agencies. If an agency needs to fill a type of position that is not included in the classification system, the agency must work with the BHR to classify and assign that position to a pay range. The BHR is also the bureau that works with an agency to determine whether a recruitment/retention stipend is warranted.

  This bureau also screens applicants for jobs that are within the competitive hiring class of employees, such as maintenance staff. For these jobs, the agency must hire persons from a list of eligible candidates developed by the bureau. Most of the teachers and other professional staff at the Baxter School are not hired through the competitive process, but are hired directly by the GBSD.

- Bureau of Employee Relations (BER) -- As with any state agency whose employees are included in the state employee collective bargaining unit, the BER negotiates the union contract on behalf of state government as the employer. This is generally not done with a specific focus on the needs of the GBSD. The BER also advises state agencies, subject to the contracts, on questions related to implementing contracts and represents state agencies in grievance arbitration, in matters before the Maine Labor Relations Board and in related court proceedings.

- Bureau of the Budget -- This bureau assists state agencies and the Governor in analyzing and preparing the state budget. The bureau also processes, oversees agency spending and establishes requirements for submission of proposed budgets.

- Bureau of General Services -- This bureau manages state property, including the grounds and buildings at the Baxter School. The bureau also includes the division that authorizes and regulates purchases and contracts entered into by state agencies.

Department of the Attorney General. The Department of the Attorney General provides legal services to state agencies, including the Governor Baxter School for the Deaf. Attorneys from the office represent the State in court in all actions where the State is a party. The school may request answers to specific legal questions and may use the services of the office in responding to complaints by parents under the IDEA.

Department of Conservation. The Department of Conservation manages the island to comply with the conditions imposed in the deed granting the island to the State by Governor Baxter. The deed giving the island to the State provided that the grant was conditioned, among other things, on the State's maintaining a small animal cemetery on the island, using the island for state public purposes only and maintaining the island and surrounding waters as a sanctuary for wild beasts and birds.

In a transfer agreement signed June 29, 1992, the Department of Education transferred responsibility for the management of the natural resources of Mackworth Island to the Department of Conservation. The agreement directs the Bureau of Public Lands to work closely with the administration of the Baxter School in exercising management of the natural resources of the island.

C. Problems with the Current Governance of the GBSD

The Task Force generally agrees that the governance structure created by P. L. 1995, c. 676 has not solved the GBSD's problems. The people who are served by the GBSD, its administrators and staff do not feel that they have gained the control needed to properly manage the school. Although the law gives the school board authority to hire staff and manage the school, the board's exercise of that authority is hampered by its need to work through and comply with numerous complicated state administrative laws and bureaucracies that are not designed to meet the needs of an educational institution. At the same time, the Department of Education is uncomfortable with its diminished ability to affect the education and safety of students at the Baxter School and the educational opportunities available to all persons served by the GBSD across the State.

Problems with the current structure cited by the Task Force include the following:

- Hiring of Superintendent and Principal -- The school board has the duty of selecting the superintendent and wishes to have greater discretion in determining an appropriate salary. Although the state personnel system does provide for the payment of a stipend in situations such as this, an agency that wishes to pay a so-called "recruitment/retention stipend" must provide evidence to the state Bureau of Human Resources every 2 years to continue the stipend. The GBSD board would prefer to determine the salary on its own. Recruiting and retaining a qualified school principal has suffered from similar problems.

- Substitute Staff and Interpreters-- At the time of the Task Force meetings, based on the recommendations of the 1998 Legislative Review Committee studying the governance structure of the GBSD, the Baxter School had increased flexibility to hire substitute teachers or substitutes for other staff and interpreters. Although this allows for better ability to hire necessary staff, the current solution does not provide the degree of flexibility that would allow the most effective operation for the needs of this special purpose state school.

- School Board Vacancies and Composition -- State law specifies the composition of the School Board of the Baxter School (see Appendix J). The Governor must appoint persons who meet the criteria set forth in the statute, rather than appointing persons on the basis of their general expertise or qualifications. Recent vacancies on the school board went unfilled for many months, leaving the board with barely the minimum quorum required for taking official action. The Task Force expressed concern that specific criteria were not necessarily represented on the Board. The Task Force thought it was important that at least some members of the Board had such skills as: previous experience on a board of directors; fiscal, financial and budgetary knowledge; expertise in deaf education issues; as well as a broader representation of the Deaf community. In addition, the consultant to the GBSD Board of Directors stated that the Board was too small to accomplish the multiple tasks a fully functional board would be responsible for if the Board was to take on the typical operational duties of a public school board.

- Individualized Education Program (IEP) and Budget Planning -- The timing of state budget decisions does not allow planning for the needs of GBSD students. Individual education plans, required for all exceptional students by the IDEA, are developed prior to the student's placement at the GBSD and determine what staff and other services are needed for each child. If a student's IEP calls for a certain educational or therapeutic service and there is no such staff person available at the Baxter School, the school must either contract for the service provider (at a higher cost) or do without -- a violation of the IDEA. Following a review of contracting practices at the school, the Internal Revenue Service found that certain individual providers who were under contract had to be formally employed by the GBSD to comply with state and federal employment and payroll requirements. The BHR is also helping the Baxter School create positions in the upcoming budget cycle to provide for necessary service providers. A budget that allowed for greater flexibility would enable the school to meet those needs without getting legislative approval.

- Legal Services -- As a state agency, the school is required to use the legal services of the Office of the Attorney General, and may hire outside counsel only if the Attorney General consents. The purpose behind the state law requiring that all legal services be provided or approved by the Attorney General is to ensure consistency in legal services and legal arguments among state agencies, to maximize the use of state resources and to provide governmental entities with lawyers having expertise in laws relating to their jurisdictions. In cases of competing interests the Baxter School Board members would like to have the option of retaining its own legal counsel. The role of the Office of the Attorney General should be clarified with respect to the GBSD.

- Property Management -- The Governor Baxter school board does not have exclusive control of the island on which the school is situated or the buildings it occupies. The island and property located on it are owned by the state and managed by a trio of entities: the Baxter School itself, the Department of Conservation (DOC) and the Bureau of General Services (BGS). The DOC is charged with ensuring that the island be maintained as a sanctuary for wild beasts and birds, and also managing the use of the perimeter of the island as the public has access to the perimeter trail. This has caused concern for the school, since there is no method to ensure that the public does not wander onto the school campus and disturb the children. Although there has been no trouble recently, in the past there were problems. There is a Baxter school staff person at the gate to the school, but no full-time DOC employee monitoring use of the island. With regard to management of the grounds and buildings of the school, there is divided responsibility between the Bureau of General Services and the school. The school has some maintenance staff, but the BGS also provides services. Here again, these competing interests require the roles of the DOC and BGS should be clarified with respect to the GBSD.

- Educational Program -- Many Governance Task Force members believe that the recent change in governance structure has done little to alleviate concerns about the educational program at the school. Administrators, staff and school board members spend so much time and energy trying to solve immediate problems that they have been unable to dedicate time to development of curriculum and other educational matters. Among the educational program concerns remaining at the Baxter School are the following: lowered educational expectations, limited curricular offerings, lack of student assessment, residential student safety and security due to inadequate staffing levels in residence halls and lack of training for residential staff and an insufficient number of faculty, resources and course offerings in the outreach programs.

D. Current Educational Program of the GBSD

The Baxter School offers a variety of different programs to serve the varied needs of deaf and hard-of-hearing children and their families.

- The Early Childhood Programs offer consultation and support services and programs to families and children from birth to age five. Included are on-site and home based services to families with children newborn to 3 years of age, a language-enriched, developmentally-based preschool program for children ages 3 to 5 years old who are deaf and a developmental language-based preschool program for hearing children with special speech and language disorders or delay.

- The GBSD also offers an on-site "center school" program for K-12 level students. The children receive a K-12 educational program with the appropriate support services, such as speech and language therapy, audiology and occupational therapy based on the students' IEPs. The center school programs offer a range of academic, athletic, social, cultural and recreational programs to facilitate the students' development.

- The GBSD Residential Life Program is also available for students in grades 8-12. Residential Life Program placement allows distant students to attend the Baxter School and also provides nearby students the opportunity for greater socialization and exposure to Deaf culture thorough increased interaction with peers. Residential placement is determined by the PET process and serves GBSD students who either live an extreme distance from the school or who have other social/emotional needs as determined by the PET.

- In addition, the Outreach Program offers assistance to service providers in the local school districts that serve students who are deaf and hard-of-hearing and choose to remain in their home school district. This assistance is provided through consultation, technical assistance, in-service trainings and regional peer support groups.

E. Problems with the Current Educational Program of the GBSD

The Baxter School Board and the Superintendent requested that the Commissioner of Education dispatch a review committee to the school to conduct a Basic School Approval Review. The Basic School Approval Review Committee (Review Committee) included three Department of Education staff; a teacher, a curriculum coordinator, a principal, a superintendent and two directors of special education from various school departments in the area; a consultant from the Spurwink School; a representative from the Rehabilitation Administration of the U. S. Department of Education and a private consultant specializing in deaf education. The review was conducted in December, 1998 and the report stated that the numerous commendations, findings and recommendation were based on the inspection of GBSD documents, policies, statistics and the interviews. The deficiencies noted were in various components of the school approval review. The Review Committee determined that given the deficits present in the current educational program at the GBSD, the Commissioner of Education should change the GBSD status from "Approval" to "Provisional Approval" as provided for in DOE Regulations Chapter 125, "Regulations Governing Basic School Approval."

The Review Committee findings were in the following 6 major areas:

- Facilities,
- Curriculum, Instruction and Assessment,
- Professional Development,
- Programming,
- Personnel-Certification, and
- Special Education and 504 Students.

The following summarizes selected findings, recommendations, and proposed actions resulting from the Basic School Approval Review.

Facilities. These findings addressed the physical needs for all of the buildings and grounds. Most importantly, the review committee noted the GBSD needed a campus-wide fire alarm system that was up-to-date and comprehensive. In addition, the middle school and high school facilities were in critical need of repair and renovations and there were numerous security concerns. The GBSD has developed a comprehensive maintenance plan and has included consultation with DOE, the Department of Labor and the Bureau of General Services in order to address the facilities findings..

Curriculum, Instruction and Assessment. These findings addressed the need for a consistent curriculum across all grade levels, especially with respect to Maine's System of Learning Results. The GBSD administration has consulted with the Falmouth School Department concerning the adaptation of the Falmouth curriculum to the Baxter School program. Another finding indicated that course offerings needed to be expanded to provide GBSD students with a broader secondary level educational experience. The GBSD responded with plans for a technical assistance contract with an outside consultant to develop methods to enhance literacy development, boost aspirations and expand course options.

Professional Development. This area of the Basic School Approval Review found that the GBSD lacked a consistent and cohesive professional development plan. The GBSD School Approval Corrective Action Plan included a review of the current professional development plan and involved consultation and technical assistance from the DOE to assist the GBSD in developing and implementing "best practices" for staff development.

Programming. These findings centered on the level of educational programming available to GBSD students, as well as the academic readiness of the GBSD students to succeed in mainstream classrooms. It was also noted that the Outreach Program was dreadfully understaffed with each caseworker only able to schedule one visit to a public school per year for each student because of the number of students involved and their geographic dispersion throughout the state. This shortage of outreach staff causes difficulty with follow-up and continuity of support for the deaf and hard-of-hearing students receiving outreach services. The GBSD action plan calls for expanding the Outreach Program and for additional staff. The action plan also includes strategies for the identification and comparison of statewide K-12 instructional programs to allow better alignment of outreach services, as well as plans to track the academic readiness of former GBSD students who subsequently attend public schools.

Personnel-Certification. This section addresses the qualifications and evaluations of the current personnel. The GBSD action plan involves an inventory by an outside consultant to assist with aligning the licensing requirements and hiring procedures at the GBSD. The plan also calls for the technical assistance consultant to review performance-based evaluation systems used in other residential settings.

Special Education and 504 Students. These findings indicate confusion concerning appropriate application of State and federal regulations. For example, many IEPs contain identical goals and related objectives, no clear policies exist regarding PET and IEP development, there is confusion concerning the designation of disabilities under special education laws or as identified under Section 504 of the Rehabilitation Act of 1973. Finally, conflicting information exists concerning the provision of supportive services and whether the GBSD or the sending school unit is responsible. Here again, the GBSD plans to use the technical assistance contract with an outside consultant to develop a process for clarifying the complex technical application of the appropriate State and federal regulations.

It should also be noted that the School Approval Review Committee recognized many positive experiences at the GBSD throughout the review process. Throughout the review, the development of the action plan and the various updates the Review Committee was significantly impressed with the commitment and valiant efforts of the people at the GBSD to bring about the necessary improvements. In particular, members of the GBSD administration, faculty, staff, student body and parents were wholly cooperative in their dealings with the Review Committee. The Review Committee clearly sensed the strong commitment and enthusiasm shared by the people they came in contact with concerning support for the GBSD's programs and continued services.

F. Other State Models

As part of the information gathering process on governance models, the Task Force reviewed examples of different types of governance structures studied by the 1998 Governance Review Committee (see Appendices K). The Task Force also heard from schools for the deaf that were operating within a different system of governance. The Task Force was interested in both a privately-run school as well as a publicly-operated school. The consultant to the Task Force arranged for the superintendents of two schools, The American School for the Deaf, a privately-run school and The Maryland School for the Deaf, a publicly-operated school to visit the Task Force and explain the workings and governance system of their respective schools.

The American School for the Deaf. The American School for the Deaf (ASD) is the oldest special education institute of any kind in the United States. Thus, when it was developed in 1817, there were no existing models. Over time, its procedures, protocols and philosophies have evolved based on the success and failure of their experiences. The ASD is a privately-run school with 130 Corporators who meet once a year. The school is governed by a 21 member Board of Directors that serve 3-year terms and the school's day to day operations are directed by the 5 executive officers; the president, the first vice president, the second vice president, the secretary and the treasurer. The ASD serves a population of nearly 250 students (80% from in-state) and has a budget of approximately $12 million dollars a year, of which nearly half comes from the General Assembly of Connecticut based on the previous years' budget and the Governor's increase. The School also has $30 million dollars of endowments and they use the income from their endowments to supplement their budget and for enrichment purposes. They do not use the endowment income as general support funds for the school. In addition, they lease a portion of their campus facilities to a Montessori school and they also raise money through annual fundraisers such as a golf tournament raising $60,000 and a Board Member 'Roast' raising $30,000.

The Superintendent of the ASD outlined the process by which they receive budgetary approval and funding through the legislature. The School presents their budget to the Department of Education which forwards the budget to the General Assembly. The Superintendent attends legislative budget session and testifies on behalf of the budget, whereupon the legislature acts on the request and provides funding to the School Board. For capital expenditures, such as constructing a new building, the school would request money through the state bond commission. The Superintendent stated that the advantage of being a private school was the amount of flexibility with the budget. State funds are appropriated to the Board, the school presents their budget to the Board, and the school is authorized to spend, based on the Board's approval. If any adjustments in the budget are needed, the Superintendent would make that request to the Board.

The Maryland School for the Deaf. The Maryland School for the Deaf (MSD) was established in 1868 and currently operates at two different sites. The main site is located in Frederick and has about 350 students from infant to grade twelve and the other location is in Columbia, which has about 130 students from infant to grade eight. The MSD is a publicly operated school that acts as an independent state agency—a separate entity that is not part of the Department of Education. In 1992, a law was passed abolishing its 30-member (lifetime membership) Board of Visitors in favor of a 19-member Board of Trustees. The Trustees serve 6-year terms and are allowed two consecutive terms. Of the 19 members, 6 must be members of the Deaf community, although currently 10 members are deaf. The Board of Trustees is governed by its own set of by-laws and it operates like other school boards, establishing a budget, hiring and firing the superintendent, approving the master facility plan, establishing out-of-state tuition rates (in-state students attend at no charge) and other standard functions similar to any school board.

In 1996 the Maryland Legislature established a task force to study the funding structure of the school. Until that time, the MSD started each year with a zero-base budget, unlike other Maryland public schools that started with a funding formula and a predictable funding level based on the previous year's budget. As a result of that task force, the MSD funding is now established with a base of the current budget plus the funding formula plus a 4% incremental increase -- the same as the public school process. The school has an annual appropriation of approximately $16 million. The school also has the option of going to the legislature for "unfunded budget requests." If the legislature approves the request, that amount is added to the base and becomes part of next year's base budget. This new budget mechanism provides the school with a predictable level of funding; and the school only needs to approach the legislature for the unfunded budget requests and not the entire budget amount as was the case in previous years.

A. G. Other Proposals That Merit Further Review

The superintendent for the Maryland School for the Deaf, as a deaf adult with two deaf children, also spoke about the critical importance of early identification of hearing loss in order to take full advantage of appropriate treatment and intervention measures to enhance an infant's speech, language and cognitive skills development. He emphasized that in order to prevent or mitigate developmental delays and academic failures associated with undetected hearing loss infants need to be exposed to and learn some form of language before the age of two. He also pointed out the unfortunate fact that most hearing loss is not detected until children are about 2½ years old, when it is virtually too late to receive the full benefit of natural language acquisition. He stated that his two children, who were both born deaf, did not experience the same developmental or academic delays that he had experienced as a young deaf child simply because they were exposed to a language they could relate to from the time they were born. Maryland recently passed a "Universal Screening Law" for the early identification of hearing loss in newborns and the Superintendent suggested that a similar screening program would benefit deaf citizens in Maine.

Based on his recommendation and Task Force discussion, the Task Force members unanimously supported, in concept, the establishment of a hearing-screening program for all newborns in the State in order to maximize the potential of infants' communication skills and cognitive development (please note that the DOE and the DAFS members abstained from this vote). The Health and Human Services Committee was considering LD 1814, An Act Establishing the Newborn Hearing Program during the 2nd Regular Session of the 119th Legislature. The Task Force endorsed the establishment of statewide hearing screening tests to newborn children and agreed to notify the Health and Human Services Committee of this endorsement. Task Force members did not take a position on the specific requirements proposed for the Newborn Hearing Program, or the particular financing, oversight, tracking and mechanisms contained within LD 1814.

III. Conclusions and Recommendations

Conclusions

While Task Force members reached consensus* on several conclusions regarding the delivery of educational programs for deaf and hard-of-hearing students in the State and the redesign of the governance system, the Task Force was not able to agree on all issues. Except where noted, conclusions and recommendations were approved by a consensus of those Task Force members present.

A. Delivery of Educational Programs and Services

The Task Force recognizes the noteworthy progress that has taken place at the Governor Baxter School for the Deaf (GBSD) in the past year. Task Force members commend the School Board, administrative leadership, faculty and staff of the Baxter School for making tremendous strides in developing and implementing a number of elements of the Basic School Approval corrective action plan, including the hiring of teaching principals, a guidance counselor and other school personnel, the establishment of training programs for faculty members and residential program staff, and for implementing the Maine Education Assessment program for the first time.

With respect to the delivery of educational programs and services to deaf and hard-of-hearing students in the State, a majority of Task Force members present concluded that:

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* Task Force members Senator Berube, Senator Kilkelly, Senator Small and Representative Bragdon were absent from the meeting at which conclusions and recommendations were approved.

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- The corrective action plan developed by the Baxter School in response to the Basic School Approval report articulates the actions and performance indicators that can guide the school toward school approval status and school improvement;

- Staffing levels within the Baxter School's outreach and statewide consultation services may not be adequate to ensure that deaf and hard-of-hearing students placed in local public schools are receiving appropriate outreach services;

- Deaf and hard-of-hearing students placed in local public schools may not have access to qualified educational personnel and appropriate academic support services;

- The existing programs operated by the Baxter School should be maintained for a period of two years and must include the continuation of contracted services that provide consultation, training and appropriate safeguards for students who are placed in the residential program; and

- State policymakers should focus on a statewide configuration that provides an array of educational placement options for educating deaf and hard-of-hearing students, including high quality programs and services offered at local public schools, at the Baxter School and possibly through an array of regional satellite programs and outreach services that can meet the Individual Education Program (IEP) of every Maine student requiring placement.

Regarding the administration of the Baxter School's residential program and outreach services, the Task Force did not agree on the appropriate delivery system for these programs. Task Force members were divided on this issue as follows:

- A majority of the Task Force concluded that the existing "center school" programs at Mackworth Island should be upgraded to include an array of affiliated satellite programs and outreach services to be operated by the Baxter School; and

- A minority of the Task Force concluded that the existing residential and outreach programs should be delivered through an array of community-based residential and outreach programs that are operated through a contractual relationship with public school administrative units or with private, non-profit, educational organizations.

B. Redesign of the Governance System

The Task Force recognizes the positive steps undertaken in the past year by the School Board and administrative leadership of the GBSD, the Department of Education (DOE) and the Department of Administrative and Financial Services to address the short-term budget and personnel issues facing the Baxter School. In particular, Task Force members acknowledge the progress made in the following areas: increasing the salary of the superintendent position to make it possible for the Baxter School to successfully complete a national search for this critical leadership position, enabling the school to create American Sign Language (ASL) Interpreter positions and substitute positions, and the development of a supplemental budget request to address additional personnel needs at the school. The Task Force also commends Baxter School officials for the leadership they have demonstrated in crafting the Basic School Approval corrective action plan and cultivating the commitment of faculty and staff to undertake this important work. Finally, the Task Force supports the GBSD School Board decision to establish a board development plan to increase the functional capacity of the school board to effectively govern the school.

While unable to agree on all aspects of redesigning the existing governance system, Task Force members unanimously agreed on the following conclusions:

- The Legislature should take immediate action to change the governance system to a more autonomous model comparable to the governance systems established for the Maine School for Science and Mathematics and the Maine Technical College System;
- The Legislature should take immediate action to create a new governing board and should also specify goals and benchmarks that the GBSD School Board must achieve prior to granting greater authority to the new governing board; and
- The composition of the new governing board should also be reviewed by the Legislature; and the number of board members should be increased to involve members of the public who possess both desirable skills and knowledge that would enhance the functioning capacity of the board; and
- The process of appointing governing board members should allow the board and other interested parties to nominate potential candidates to the Governor, and should require legislative confirmation of gubernatorial nominees to the board.

Concerns regarding certain aspects of the administration of the Baxter School's residential program and outreach services prevented the Task Force from agreeing on the appropriate governance arrangement regarding these programs. As a result, the Task Force report was divided as follows:

- A majority of the Task Force concluded that the new governing board should have both the policymaking authority and the operational responsibility for delivering an array of educational programs for deaf and hard-of-hearing students in the State; and
- A minority of the Task Force concluded that the new governing board should properly balance its policymaking authority and operational responsibility with the need to ensure that appropriate educational opportunities are provided for all deaf and hard-of-hearing students, including those students placed in the "center school" programs on Mackworth Island and those students placed in community-based, residential or outreach programs.

Recommendations

The Task Force reached consensus on the following findings and recommendations regarding the governance and delivery of instructional programs for deaf and hard-of-hearing students in the State:

A. Public Policy on Education of the Deaf and Hard-of-hearing

Findings

The Task Force finds that state policymakers, stakeholders and interested parties must recognize that State educational policies regarding the placement of deaf and hard-of-hearing students are governed by both federal and State law. The federal Individuals with Disabilities Education Act (IDEA), Section 504 of the federal Vocational Rehabilitation Act (Sec. 504), and State statutes obligate the DOE, the GBSD and any public school or approved private school in the State to provide deaf and hard-of-hearing students with a free and appropriate public education (FAPE) in the least restrictive environment (LRE).

Accordingly, deaf and hard-of-hearing students are provided with educational services in a variety of educational placements, including public schools, the Baxter School, approved private schools and through state licensed agencies as determined by state special education laws. Once referred for special education services, a prospective special needs student is evaluated by a Pupil Evaluation Team (PET) that may determine the student should receive educational programs and related services in a particular educational program placement. The overriding principle regarding student placement is that placement decisions may not be made on a category of exceptionality or disability, the availability of educational services or for administrative convenience, but must be made on an individual basis in the LRE according to the IEP for that particular student.

The Task Force recognizes that, regardless of the placement required by an Individual Education Program (IEP) for a deaf and hard-of-hearing student, the local school administrative is ultimately responsible for ensuring the delivery of special education services for students residing within their jurisdiction. The Task Force also acknowledges that the Baxter School must comply with the provisions of the IEP for students placed at the school, and that the GBSD may also provide outreach services to deaf and hard-of-hearing students who are placed in their local public school setting.

Recommendation

The Task Force recommends that the Legislature take immediate action to change the statutes regarding the role and responsibilities of the Baxter School in delivering educational programs for deaf and hard-of-hearing students in the State. The Task Force recommends that the Legislature should consider the following policy principles as guidance for state policymakers who are responsible for the planning and the delivery of instructional programs and educational services for deaf and hard-of-hearing students:

1. Recognition of the Array of Programs and Services Delivered to Deaf and Hard-of-hearing Students in Accordance with Federal and State Law

The Task Force recommends that the following array of instructional programs be recognized as essential placement options for the purpose of educating deaf and hard-of-hearing students in the State. State policymakers, educational stakeholders and interested parties must recognize that the array of instructional programs includes programs delivered by:

A. Local public schools or approved private schools in the State that may provide special education programs and services to deaf and hard-of-hearing students in accordance with both federal and State laws and regulations;

B. The Baxter School located at Mackworth Island, including the residential program, day school program, parent-infant program, pre-school program, and communication garden program, distance education program, and community education program;

C. Satellite programs, including residential programs, day school programs and early childhood programs that may be offered by publicly-operated or independently-operated schools; and which are dispersed geographically and located near the population centers of deaf and hard-of-hearing students within the state and are under contract with local school administrative units and the reconstituted governing board; and

D. Statewide consultation and outreach programs that may be offered by publicly-operated or independently-operated schools; and which are dispersed geographically and located near the population centers of the state and are under contract with the reconstituted governing board.

2. Legal Requirements and Policy Standards for Educational Programs for Deaf and Hard-of-hearing Students.

The Task Force also recommends that authorized programs within the array of instructional programs for deaf and hard-of-hearing students not only comply with all applicable federal and state statutory requirements, but should also meet certain educational policy guidelines and accreditation standards as follows:

A. Federal laws and regulations, including the federal policy guidance issued in 1992 and 1994 regarding the development of an Individual Education Program (IEP) and the determination of a Free and Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) for a deaf or hard-of-hearing student. This policy guidance stated that the development of an IEP and determination of a FAPE in the LRE for a deaf or hard-of-hearing student must take into consideration the following factors:

(1) Communication needs and the child's preferred mode of communication;
(2) Linguistic needs;
(3) Severity of hearing loss and potential for using residual hearing;

(4) Academic level; and
(5) Social, emotional and cultural needs, including opportunities for peer interactions and communication;

B. State statutes and rules, including standards for public schools or approved private schools and provisions regarding the delivery of educational services to children with disabilities;

C. Educational service guidelines for deaf and hard-of-hearing students with respect to ensuring that every deaf or hard-of-hearing student receives direct instruction and related educational services from appropriately certified teachers and qualified educational support personnel, including audiologists, deaf studies specialists, speech therapists and ASL interpreters; and

D. Accreditation standards from an appropriate accrediting agency.

3. Participation in and Support for Newborn Screening Programs.

The Task Force* recommends that the educational programs affiliated with the array of instructional programs should participate in and support, as may be appropriate, the newborn hearing screening program established in the State in order to maximize the potential of an infant's communication skills, cognitive development and readiness to learn. (* the DOE and the DAFS members abstained from the Task Force vote on this issue).

B. Governance System for the Array of Instructional Programs for Deaf and Hard-of-hearing Students.

Findings

The Task Force finds that the Governor, the Baxter School, several executive branch agencies and the Maine Legislature have a shared obligation to ensure that the school achieves Basic School Approval status. Furthermore, the Task Force finds that state policymakers should augment the governance capacity of the school board by providing technical assistance, consultation and adequate resources over a two-year transition period. State-level technical assistance should support the school board as board members develop the capacity for genuine policymaking authority and the ability to govern the Baxter School with substantial autonomy as they seek to transition from the existing state budget, personnel and collective bargaining systems.

Recommendation

The Task Force recommends that the Legislature take immediate action to change existing statutes regarding the governance system of the Baxter School. These statutory changes should include a 24-month transition period, including benchmarks and methods of assessing the capacity of the GBSD School Board to exercise genuine policymaking authority and to govern the Baxter School with substantial autonomy. The Task Force recommends that the Legislature should consider the following factors in designing benchmarks and methods of assessment that can "trigger" the implementation of the new governance system:

1. Transition to a Redesigned Governance System.

The Task Force recommends that the Legislature, the Governor and the GBSD School Board work together over the next two years to implement a new governance system. Task Force members agreed that a new governance system should include a governing board empowered with genuine policymaking authority and substantial autonomy to develop educational policies for the existing "center school" programs on Mackworth Island and the Baxter School's statewide consultation and outreach services. Task Force members did not agree on whether this reconstituted governing board should have sole authority for operating any or all affiliated instructional programs for deaf and hard-of-hearing students that may be established in the State.

The Task Force also recommends that a new governing board be established consistent with the following:

A. The governing board should have legitimate authority to develop policy for the school that is consistent with State and federal laws and regulations;

B. The total membership of the governing board should be increased and the composition of the board should be based on skill or knowledge-based qualifications (e.g., human resource management, financial planning and management, experience expertise in education of the deaf, etc.) in addition to the existing categorical criteria (e.g., representatives of parents, the Deaf community, the general public, etc.) so that the governing board as a whole sufficiently represents all categorical criteria and skill or knowledge-based qualifications;

C. The process for appointment of governing board members should allow the governing board and other interested parties to have the opportunity to nominate potential board candidates to the Governor; and allow the Governor to have appointment authority subject to the review of, and confirmation by, the Legislature;

D. The governing board should have budget flexibility with the ability to transfer money within its budget categories, as needed;

E. The governing board should have the authority to establish its own personnel management system for Baxter School personnel, including the option of separating from the state personnel classification system; and

F. Following a transition period during which the State, the GBSD School Board and the collective bargaining units of the current Baxter School employees can negotiate the necessary provisions of a new legal framework for labor relations (similar to statutory transition requirements enacted for the Maine State Retirement System and the Maine Technical College System), the governing board should have the authority to negotiate directly with collective bargaining units, including the authority to define employee benefits (e.g., health and retirement benefits) pursuant to State law and all other necessary transition requirements.

2. Cohesive Program Delivery System.

The Task Force also recommends that the governance system stakeholders develop, maintain and support the most cohesive delivery system possible for planning and providing educational opportunities for each deaf and hard-of-hearing student in the State through an array of instructional programs.

3. Program Placement Options and Related Instructional Philosophies.

The Task Force further recommends that the governing body of the statewide instructional program should maintain a full range of program placement options and related instructional philosophies (e.g., bilingual/bicultural; cued speech, oral, etc.) that its deaf and hard-of-hearing students may require to fulfill the placement requirements of their Individual Educational Programs.

4. Public Funds, Financial Support and Accountability.

Finally, the Task Force recommends that the Legislature and the Governor provide adequate financial support to maintain high quality educational opportunities for deaf and hard-of-hearing students through appropriations, grants and loans, based on comprehensive plans and budgets, both short-term and long-term. The Task Force encourages the array of instructional programs to make maximum use of federal funds available for the support of instructional programs and related educational services for the deaf and hard-of-hearing students, and also advocates that the State should provide matching funds, where necessary, initially and on a continuing basis. Task Force members also recommend that the reconstituted governing body should expect appropriate public accountability for this financial support.

C. Powers and Duties of the Governing Board

Findings

The Task Force finds that the Governor Baxter School for the Deaf and its affiliated programs are established as a public school pursuant to statutes for the purpose of providing deaf and hard-of-hearing students with a quality educational experience. The Baxter School is a body politic and corporate and is an instrumentality and agency of the State. The exercise by the school of the powers conferred by statutes is the performance of an essential public function by and on behalf of the State.

Recommendation

The Task Force recommends that the Legislature take immediate action to change existing statutes regarding the powers and duties of the governing board for the Baxter School, and that the powers and duties of the governing board should include the following:

A. To develop and adopt policies and rules, including bylaws, necessary or useful for the operation of the school and its affiliated programs;

B. To oversee the administration of the school and its affiliated programs, including the hiring of teachers and administrative support staff;

C. To appoint a treasurer, who need not be a member of the governing board, and to accept donations, bequests or other forms of financial assistance for any educational purpose from a public or private person or agency and to comply with rules and regulations governing grants from the federal government or from any other person or agency;

D. To prepare and adopt an annual budget for the operation of the school and its affiliated programs, and to exercise budgetary responsibility and allocate for expenditure by the school and programs under its jurisdiction all the resources available for the operation of the school and its programs;

E. To enter into any contracts and agreements, to the extent that funds are available, in the execution of its powers under this chapter;

F. To establish benchmarks and methods of assessing progress towards attaining Basic School Approval status; including benchmarks and methods of assessing the levels of academic achievement for students who participate in school programs and benchmarks and methods of assessing progress in the professional development of teachers, administrators and other school personnel who participate in providing school programs;

G. The trustees, superintendent, or the board's representative, shall report annually to the Governor and the Legislative Standing Committee on Education and Cultural Affairs on the results of the student assessment and the general status of the school and its affiliated programs in complying with the state public policy on education of students who are deaf and hard-of-hearing as established by statute;

H. To provide annually to the Governor, the joint standing committee of the Legislature having jurisdiction over education matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a financial audit of the school conducted by an independent auditor that accounts for the prior year's funding; and

I. To report semi-annually (e.g., by July 1, 2000; January 1, 2001 and July 1, 2001) to the Governor and the Legislative Standing Committee on Education and Cultural Affairs on the board development activities and on the status of the board's progress towards the benchmarks and levels of policy-making and governance capacity as established in the recommendation of a two-year transition period.

APPENDIX A

Enabling Legislation
Joint Study Order H. P. 1587

STATE OF MAINE
House Paper # 1587

WHEREAS, the Legislature finds that the Governor Baxter School for the Deaf is a unique institution in Maine, a state-funded school for the deaf and hard-of-hearing, with a statewide obligation and role to help local schools educate deaf and hard-of-hearing children and a critical role in the deaf culture of the State; and

WHEREAS, the Legislature finds that, to take best advantage of its unique features, the Governor Baxter School for the Deaf needs a governance system and management powers that reflect the school's unique status; and

WHEREAS, the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf concluded that the current governance system of the Governor Baxter School for the Deaf does not fit the school's need for effective and efficient governance; and

WHEREAS, both the Department of Education's review committee report regarding the compliance of the Governor Baxter School for the Deaf with the basic school approval statutory requirements and the report of the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf found the school's employment of certified and qualified school personnel and provisions for the security and welfare of residential students to be deficient, and the department's review committee also concluded that significant deficits in the current educational program at the school, including the lack of a cohesive curriculum, instruction and assessment program, warranted the Commissioner of Education to change the status of the Governor Baxter School for the Deaf from "approval" to "provisional approval" and further required the Governor Baxter School for the Deaf to file with the commissioner an acceptable written plan of action for addressing identified deficits, which includes addressing safety concerns at the facility; and

WHEREAS, the Legislature finds that it is necessary to review the efficiency and effectiveness of the educational program at the Governor Baxter School for the Deaf in the context of the range of alternative educational models and placements that are available to deliver appropriate educational programs and services that meet the unique educational needs of children and youth who are deaf and hard-of-hearing; and

WHEREAS, the Legislature finds that there is an urgent need for a task force to review the educational program and the governance system of the Governor Baxter School for the Deaf to ensure that the school is meeting its statewide obligation and role of helping local schools educate deaf and hard-of-hearing children in an efficient and effective manner; now, therefore, be it

ORDERED, the Senate concurring, that the Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf is established as follows.

1. Task force established. The Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf, referred to in this order as the "task force," is established.

2. Task force membership. The task force consists of 14 members as follows.

A. The President of the Senate shall appoint 4 members from the Senate, including one member who serves on the Joint Standing Committee on Education and Cultural Affairs, one member who serves on the Joint Standing Committee on Health and Human Services, one member who serves on the Joint

Standing Committee on Judiciary and one member who serves on the Joint Standing Committee on Agriculture, Conservation and Forestry.

B. The Speaker of the House of Representatives shall appoint 4 members from the House of Representatives, including one member who serves on the Joint Standing Committee on Education and Cultural Affairs, one member who serves on the Joint Standing Committee on Health and Human Services, one member who serves on the Joint Standing Committee on Judiciary and one member who serves on the Joint Standing Committee on Agriculture, Conservation and Forestry.

C. The President of the Senate shall appoint 2 members from the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf who represent the deaf community.

D. The Speaker of the House shall appoint one member from the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf who represents an interested party other than a state agency or the deaf community.

E. The Commissioner of Education or the commissioner's designee must be a member of the task force.

F. The Commissioner of Administrative and Financial Services or the commissioner's designee must be a member of the task force.

G. One of the cochairs of the School Board of the Governor Baxter School for the Deaf or the school board cochairs' designee must be a member of the task force.

3. Chairs. The first Senate member named is the Senate chair and the first House member named is the House chair.

4. Appointments; convening task force. All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the chairs of the task force shall call and convene the first meeting of the task force no later than July 15, 1999.

5. Duties. The task force shall review the educational program of the Governor Baxter School for the Deaf to ensure that the school is meeting its statewide obligation and role in helping local schools educate deaf and hard-of-hearing children in an efficient and effective manner, and, if appropriate, the task force shall recommend a design for a new governance system for the Governor Baxter School for the Deaf and shall prepare a plan that will help the school develop the capacity to implement a system that is more efficient and effective than the current governance system. In conducting this review, the task force shall:

A. Request, as appropriate, the assistance of the Department of Education, the Department of Administrative and Financial Services, the Bureau of Parks and Lands within the Department of Conservation, the Department of the Attorney General, the School Board of the Governor Baxter School for the Deaf, the College of Education within the University of Southern Maine and other appropriate state agencies and educational institutions;

B. Invite the participation of experts and interested parties;

C. Hire an impartial consultant to help the school, the Department of Education and other state agencies to redefine their roles and realign responsibilities; and

D. Review the efficiency and effectiveness of the educational program at the Governor Baxter School for the Deaf in the context of the range of alternative educational models and placements that are available in other states to deliver appropriate educational programs and services that meet the unique educational needs of children and youth who are deaf and hard-of-hearing and, if necessary:

(1) Redefine the basic structure of the governance system, including defining the respective roles and responsibilities of the school board, school administrators and state agencies;

(2) Identify the resources needed for the school board to develop the capacity to perform functions that the school would take over from state agencies, such as personnel and budget management functions. If the School Board of the Governor Baxter School for the Deaf is to bargain directly with employee unions and is to address employee relations issues such as grievance proceedings, the school must build the capacity to undertake these functions as well. This may involve securing additional staff for the school to strengthen its personnel management capacity;

(3) Develop a plan to address the findings and recommendations from the Department of Education's basic school approval review conducted in December 1998, conduct any other necessary reviews, such as a comprehensive review of safety, security and welfare of students in the residential program at the school, and develop a plan to address the results of those reviews;

(4) Consult with Governor Baxter School for the Deaf employees and their representatives so that their interests can be taken into account in designing a new governance system. Employees have an interest in the potential for changes in salary, benefits and working conditions. The task force shall take into account existing employee rights under union contracts or state law that may affect the timing or scope of change that may occur at the school;

(5) Develop strategies for properly balancing the protection of and public access to the natural resources of the island with the need for managing the state-owned facilities under the provisions of the deed from Governor Baxter granting Mackworth Island to the State. The strategies must address what role, if any, state agencies play in managing school property and Mackworth Island, what improvements are needed in the school's physical plant and who should make those improvements and whether a state agency should continue to be involved in managing the island or only in overseeing the school's compliance with the deed; and

(6) Establish benchmarks to measure the school's progress toward a more efficient and effective governance system and require that the consultant, the school and the Department of Education make progress reports to interested parties, including the Joint Standing Committee on Education and Cultural Affairs.

6. Staff assistance; interpreter services; consultant. The task force may request staffing assistance from the Legislative Council. The task force, with the approval of the Legislative Council, may contract with interpreter services to provide appropriate interpreting services for the deaf and hard-of-hearing and shall contract with a consultant to provide professional services for reviewing and analyzing the status of the governance system of the Governor Baxter School for the Deaf.

7. Expenses. Legislative members of the task force are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of the task force. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and a per diem equal to the legislative per diem for their attendance at authorized meetings of the task force.

8. Report. No later than December 3, 1999, the task force shall submit a report that includes its findings together with any recommendations for legislation to the Joint Standing Committee on Education and Cultural Affairs or for supplemental budget appropriations to the Joint Standing Committee on Appropriations and Financial Affairs. The Joint Standing Committee on Education and Cultural Affairs is authorized to report out legislation during the Second Regular Session of the 119th Legislature concerning the findings and recommendations of the task force. If the task force requires an extension of the reporting deadline, it may apply to the Legislative Council, which may grant the extension.

9. Task force budget. The chairs of the task force, with assistance from the task force staff, shall administer the task force's budget. Within 10 days after its first meeting, the task force shall present a work plan and proposed budget to the Legislative Council for its approval. The task force may not incur expenses that would result in the task force exceeding its approved budget.

Upon request from the task force, the Executive Director of the Legislative Council or the Executive Director's designee shall provide the chairs and staff with a status report on the task force budget, expenditures incurred and paid and available funds.

IN HOUSE -- May 19, 1999
SPONSORED BY: Representative BRENNAN of Portland
LEAD CO-SPONSOR: Senator BERUBE
CO-SPONSORED BY: Members, Joint Standing Committee on Education and Cultural Affairs

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APPENDIX B

Membership of The Task Force on Educational Program and Governance System of the Governor Baxter School for the Deaf

TASK FORCE TO REVIEW THE EDUCATIONAL PROGRAM AND THE GOVERNANCE SYSTEM OF THE GOVERNOR BAXTER SCHOOL FOR THE DEAF

Joint Order, HP 1587

Membership 1999

Appointments by the President

Senator Sharon Anglin Treat, Chair P.O. Box 12 Gardiner, Maine 04345	Representing the Joint Standing Committee on the Judiciary
Senator Georgette B. Berube 190 Webster Street Lewiston, Maine 04240	Representing the Joint Standing Committee on Health and Human Services
Senator Marge Kilkelly P.O. Box 180 Wiscasset, Maine 04578	Representing the Joint Standing Committee on Agriculture, Conservation and Forestry
Senator Mary Small 175 Oak Street Bath, Maine 04530	Representing the Joint Standing Committee on Education and Cultural Affairs
Jonathan Connick, Director Maine Center on Deafness 85 Preble Street Portland, Maine 04101	Representing GBSD Governance Review Committee
William Nye 253 Spruce Street Cumberland Center, Maine 04021	Representing GBSD Governance Review Committee

Appointments by the Speaker

Representative Elizabeth Watson, Chair 136 Maine Avenue, Apt. 6 Farmingdale, Maine 04344	Representing the Joint Standing Committee on Agriculture, Conservation and Forestry
Representative Michael F. Brennan 49 Wellington Road Portland, Maine 04103	Representing the Joint Standing Committee on Education and Cultural Affairs

Representative Richard H. Thompson Route 11/P.O. Box 711 Naples, Maine 04055	Representing the Joint Standing Committee on the Judiciary
Representative Tarren R. Bragdon 1229 Broadway, Suite 337 Bangor, Maine 04401	Representing the Joint Standing Committee on Health and Human Services
Judith L. Gayton 2 Wardtown Road Freeport, Maine 04032	Representing GBSD Governance Review Committee

Ex Officio

Yellow Light Breen Department of Education 23 State House Station Augusta, Maine 04333	Representing the Department of Education
Don Wills, Director of Human Resources (for Janet Waldron) Department of Administrative and Financial Services 4 State House Station Augusta, Maine 04333	Representing the Department of Administrative and Financial Services
Roxanne Baker, Chair School Board of the GBSD c/o 32 Pya Road Portland, Maine 04013	Representing School Board of the GBSD

Staffing Assistance; Consultant

Phillip D. McCarthy, Ed.D. Legislative Analyst Alison L. Ames, Legislative Researcher Office of Policy and Legal Analysis Maine State Legislature 13 State House Station Augusta, Maine 04333	Task Force Staff
Dr. Doin E. Hicks 5907 Alexander Lane/Box 178 Deale, MD 20751	Deaf Education Consultant

APPENDIX C

Governance Powers and Duties

GOVERNANCE POWERS AND DUTIES
Governor Baxter School for the Deaf

	GBSD Board	GBSD Superintendent	Department of Education	Other State Agencies	Governor	Legislature
CONTROL OF GOVERNANCE STRUCTURE	Controls internal workings of the school board and relationship between the school board and other governance entities				Appoints School Board Members	Enacts laws establishing governance structure, including powers, duties and composition of the School Board
POLICY	Statutory authority to set policy, including enrollment criteria, educational program, student conduct standards	Implements policies established by the School Board	Establishes general educational policy within framework of state and federal law (IDEA provisions establish federal policy relating to Deaf education)			Directs policy through enactment of general laws or laws specific to GBSD
BUDGET	Develops budget and submits it to the Department of Education Manages finances consistent with state budget	Assists Board in developing budget	Reviews and submits GBSD budget to Governor, without change Provides technical assistance as requested		Governor reviews, revises, and submits GBSD budget to Legislature [Governor may sign or veto budget approved by Legislature]	Legislature reviews and revises Governor's budget proposal and enacts budget, subject to Governor's approval [Legislature may attempt to override veto]
EDUCATIONAL PROGRAM/ OTHER	Ensures students are provided services in accordance with the IEP Reports assessment results to Governor and Legislature		Ensures compliance with federal law, (including ADA, IDEA) and state law	Office of the Attorney General provides legal advice to the School		

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	GBSD Board	GBSD Superintendent	Department of Education	Other State Agencies	Governor	Legislature
PERSONNEL	Hires the superintendent Oversees superintendent's hiring of other staff	Hires staff, within confines of the budget (budget determines number, type and salary of staff)	Establishes teacher certification criteria Handles personnel grievances under the union contracts	Bureau of Employee Relations -- advises DOE re: union issues DAFS Bureau of Human Resources -- classifies and allocates positions to a pay range; screens applications and provides eligibility lists for competitive hire positions, provides management training; assists with affirmative action programs		Authorizes positions and funding for positions (State law and union contracts address many personnel issues, including discipline, firing, contracting out)
SAFETY & SECURITY	Responsible for safety of students					
PROPERTY MANAGEMENT	General power to manage property Consult with BPL regarding public access to island			Bureau of General Services, Department of Administrative and Financial Services -- performs repairs, etc. of facilities Bureau of Public Lands, Department of Conservation -- manages island for protection of plant and animal life		

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APPENDIX D

Comparison of Governance Powers and Duties: Governor Baxter School for the Deaf, Public School Boards and Maine School of Science & Mathematics

COMPARISON OF GOVERNANCE POWERS AND DUTIES

Governor Baxter School, Public School Boards and Maine School of Science & Mathematics

Powers & Duties	School Board of the Gov. Baxter School for the Deaf	School Board of a local School Administrative Unit	Board of Trustees, Maine School of Science and Mathematics
AGENCY	Established as a public school for the purpose of educating deaf students. School must comply with all standards for state public schools and must comply with all federal and state laws and DOE rules for the provision of educational services to children with disabilities	Control and management of public schools are vested in the legislative and governing bodies of local school administrative units. A school administrative unit is a state-approved unit of school administration responsible for operating or constructing public schools; also a body politic and corporate Resident voters of one or more municipalities may form a school administrative unit and elect school board members, who are considered municipal officers	Established as a public, chartered school for the purpose of providing certain high-achieving high school students with a challenging educational experience. The school is a body politic and corporate and is an instrumentality and agency of the State. The exercise by the school of the powers conferred by law is the performance of an essential public function by and on behalf of the State
POLICY-MAKING	Statutory authorization as policy-making authority and governing body of the school Responsible for overseeing the administration of the school and can develop and adopt policies and rules necessary for the operation of the school	Governing body with statutory powers and duties for a school administrative unit as prescribed in Title 20-A Shall manage the schools and provide custody and care	Statutory authorization as policy-making authority and governing body of the school Can develop and adopt policies and rules, including bylaws, necessary or useful for the operation of the school Oversees administration of school

(Page 2) Powers & Duties	School Board of the Gov. Baxter School for the Deaf	School Board of a local School Administrative Unit	Board of Trustees, Maine School of Science and Mathematics
FINANCE	Maine students attend the school free of tuition and room and board expense. Funding is provided based on the amount necessary to satisfy the IEPs of the students, as defined by DOE rule. Funding must support maintenance of the school and that portion of the island used by the school, security, outreach services, adult education, access to the education network of Maine and operations of the school, including the residential program, parent-infant program, preschool program and communication garden program Board may accept donations, bequests or other financial assistance from a public or private source for any educational purpose	The constitution designates the financing of public education as a local responsibility vested in the legislative and governing bodies of local school administrative units. Statutes allow the Legislature to enact laws necessary to assure that all school administrative units make suitable provisions for the support and maintenance of the public schools so that every child shall be provided an opportunity to receive the benefits of a free public education. In this regard, the Legislature and the legislative and governing bodies of each local school administrative unit are jointly responsible for contributing to financing public education Board provides an annual audit to DOE Commissioner	Maine students attend the school free of tuition charges. The student or their parent or guardian shall pay the cost of room and board. In the case of financial need, the State shall pay the difference between the cost of room and board and the student's family's ability to pay that cost Based on the school's ability to raise private scholarship funds, the Legislature may appropriate funds to the scholarship fund Board may accept donations, bequests or other financial assistance from a public or private source for any educational purpose Provides financial audit annually to the Governor and Legislature
BUDGET DEVELOPMENT	Develops budget with aid of superintendent and staff; and submits budget proposal to the DOE, subject to review and revision by the Governor and Legislature. Manages finances consistent with state budget	Board annually prepares a budget for the operational and capital expenditures of the school administrative unit Presents budget to voters	Prepares and adopts annual budget for the school's operation, exercises budgetary responsibility and allocates for expenditure by the school all resources available for the operation of the school and its programs

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(Page 3) Powers & Duties	School Board of the Gov. Baxter School for the Deaf	School Board of a local School Administrative Unit	Board of Trustees, Maine School of Science and Mathematics
PERSONNEL	Selects and hires the superintendent Oversees superintendent's hiring of academic, residential, outreach and support staff	Selects and hires the superintendent Establish regulations governing salaries and qualifications for principals, teachers and other educational personnel, and responsible for approving superintendent's nominees for employment	Oversees administration of school, including the hiring of teachers and administrative support staff Appoints a treasurer
CURRICULUM, EDUCATIONAL PROGRAMS & SERVICES, and ASSESSMENT	Shall offer courses of study and grant diplomas and certificates. May create, maintain and expand programs (i.e., residential program, outreach services, adult education, parent-infant program, preschool program and communication garden program) Report biennially on the results of student assessment to the Governor and Legislature	Shall adopt and direct the general courses of study in accordance with the requirements of Title 20-A School administrative units may develop local assessment programs and may participate in the statewide assessment program	Shall offer courses of study and grant diplomas and certificates. Curriculum designed to exceed existing state educational standards Establish benchmarks and methods of assessing student progress in the levels of academic achievement in mathematics and science; and report biennially to the Governor and the Legislature on the results of the assessment
PROPERTY MANAGEMENT	Consult with BPL regarding public access to island	Responsible for custody and care, including repairs and insurance on school buildings and all property in the school administrative unit	Can purchase any property, lands, buildings, structures, facilities, or equipment necessary. May make improvements to facilities. Town of Limestone retains ownership of school facilities

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APPENDIX E

Examples of Different Types of Governance Structures of Schools for the Deaf

Examples of Different Types of Governance Structures of Schools for the Deaf

(presented in order of independence from the state -- least independent schools appear first; most independent schools are last)

PENNSYLVANIA	**Governance**	**Budget/Funding**	**Personnel**	**Curriculum, Assessment, Outreach**
Scranton State School for the Deaf (SSSD) SSSD is a public, residential program that enrolls 120 students (There is one other residential school in Pennsylvania that enrolls 205 students and 3 other day schools)	The school's governing board was established by the Department of Education. Appointments are made by the Governor. Policies developed by the superintendent, principal and business manager must be approved by the school's governing board as well as by the State Department of Education.	Governing Board reviews budget proposal developed by a management team consisting of superintendent, principal, business manager and 3 teachers	Non-administrative personnel are appointed by the Superintendent. Administrative personnel are recommended by the principal and approved by the Governing Board	Curriculum, determined by the Principal, must conform to Department of Education guidelines

OHIO	**Governance**	**Budget/Funding**	**Personnel**	**Curriculum, Assessment, Outreach**
Ohio School for the Deaf OSD is a public, residential school with enrollment of 141 students (Ohio has a 2nd residential school which is private and enrolls 160 students)	OSD is under supervision of the State Board of Education/Department of Education. Superintendent serves at the pleasure of the State Board of Education and reports to the CEO of the Department of Education	OSD has its own line item in the state budget School is audited every 2 years	State Board of Education hires the superintendent. Superintendent hires other staff. Salaries for teachers are regulated by law based on experience and degrees attained. Other salary are also regulated by law	Curriculum is designed to meet or exceed state educational standards

Table prepared by the Office of Policy & Legal Analysis from Information provided by Dr. Gaylen Pugh and Dr. Doin Hicks, consultants to the Department of Education

TEXAS	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach
Texas School for the Deaf TSD is a public, residential school that is a semi-autonomous agency of the state with enrollment of 446 students	9-member Board of Directors appointed by the Governor governs the school (3 members are deaf or hard of hearing, 3 are parents of persons who are deaf or hard of hearing, 3 are service providers in the field of deafness)	Board of Directors approves the budget before it goes to the Comptroller	The personnel office recruits non-academic staff; assistant superintendent recommends academic staff to the Executive Director, who takes it to the Board of Directors for approval.	Curriculum is responsibility of the assistant superintendent, who develops it with a team of staff. Programs must follow policies and principles developed under the requirements for accreditation by the Conference of Educational Administrators Serving the Deaf Accreditation Committee

ALABAMA	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach
Alabama School for the Deaf and Blind ASDB is a public, residential program that enrolls 252 students (See attached for description of the Alabama School System)	Governed by a 15-member Board of Trustees (the Governor, State Superintendent of Education and 13 others appointed by the governor)	AIDB presents a consolidated budget to the Legislature which consists of 3 primary line items. This provides flexibility and autonomy in setting job classifications and pay scales	Personnel services for the regional schools are centralized, but principals may add special skills or requirements	See attached

SOUTH CAROLINA	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach

South Carolina School for the Deaf and the Blind SCSDB is a public residential school with enrollment of 399 students	A 9 to 11 member Board of Commissioners governs the school (3 positions each are designated for representatives of the deaf and the blind communities)	SCSDB presents one consolidated budget to the Legislature. This method of funding provides flexibility -- personnel positions can be relocated easily and funds can be redistributed and redefined as needed. Also see attached	see attached	see attached

NEW MEXICO	**Governance**	**Budget/Funding**	**Personnel**	**Curriculum, Assessment, Outreach**
New Mexico School for the Deaf NMSD is a public, residential school with enrollment of 261 students	Board of Regents, appointed by the Governor, develops policy	Funding comes primarily from leases on its land and from investment (70-80%). The remainder comes from state appropriation Budget request is submitted to the Commission on Higher Education. Capital requests are made to the Legislature as needed.	The school has its own personnel department, independent of the state personnel system. Policies are developed at the school. The school participates in the state medical insurance program and the state retirement system	The school determines its own curriculum. School provides assessment services and technical assistance to local programs.

CONNECTICUT	**Governance**	**Budget/Funding**	**Personnel**	**Curriculum, Assessment, Outreach**
American School for the Deaf ASD is a state-aided, private residential school with enrollment of 245 students	Board of Directors is proprietary, independent of the State Department of Education	Budget request to the Legislature is passed through the Department for administrative purposes only	Appointments of all personnel, except the executive director (superintendent) are made by the executive director	Curriculum is determined by the senior management team, and subject to the accrediting and assessment agencies with which the school has a relationship

APPENDIX F

GBSD 1998 Governance Review Committee Conclusions

III. Conclusions and Recommendations

A. Conclusions

The committee came to two major conclusions about governance of the school: first, that some steps can be taken within the current governance system to solve some of the school's most immediate problems; and second, that even with some tailoring, the current governance system cannot be made to fit the school board's need to effectively and efficiently govern the school. A new governance system must be created to give the school greater autonomy in managing its affairs.

As explained earlier (see Background, section C), the school board feels mired in the complexity of state personnel and budgeting systems in its attempts to provide some basic services at the school. As a result of meetings between school administrators, committee members and the DAFS, several mechanisms were identified within the current systems to meet some of the school's needs. Mechanisms that do not require legislative action or union negotiations were set into motion during the course of the study and continue to be developed. Others require approval of the legislature or unions before they can be implemented. Recommendation #1 summarizes those steps that can and should be taken to make the current governance system work better for GBSD.

Even with the recommended changes, the current governance system is not flexible enough for the Baxter School to properly fulfill its responsibilities. Committee members heard information from experts in deaf education about how other states manage schools for the deaf. They also heard about other state entities with flexibility, so-called "instrumentalities of the state" such as the Maine State Retirement System, Maine School of Science and Mathematics, University of Maine System and Maine Technical College System (see Appendix N).

The committee felt that they did not have sufficient time to determine the specific structure needed by the school, and therefore made the recommendation that another group be formed to make specific recommendations (see Appendix O). However, the committee did make a recommendation calling for more immediate attention: to give greater budget flexibility to the school. The committee also set forth some general principles that must be met by the new governance structure. These are set forth in Recommendation # 3.

B. Recommendations

The GBSD Governance Review Committee unanimously recommends* :

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* Committee members Pam Brown and Aaron Rugh were absent from the meeting at which recommendations were approved. The Office of the Attorney General limited its participation on the committee to non-voting status and therefore did not participate in voting on recommendations.

1. That the school board and the state immediately take steps available within the current personnel/budget system to address personnel needs before a newly designed governance system takes effect.

As described earlier in this report, DAFS staff met with school board members, the superintendent, business manager of the Baxter School and with Governance Review Committee members to address some immediate personnel problems facing the school. The committee unanimously recommended that the following action steps be taken by school officials and DAFS staff to resolve these personnel issues:

- Recruitment and retention of qualified educational personnel -- The current manner of hiring the superintendent, principal and other professional educational personnel at the Baxter School has not resulted in the hiring of permanent, qualified leadership and constrains the hiring and retention of qualified professional educational personnel. Salaries offered for these professional positions may be set too low to compete for applicants on a national level. The school board should develop and submit a supplemental budget request for the upcoming biennium to the Governor that increases the salary range for the superintendent position. School officials should also work with the DAFS to review the applicability of the "severe recruitment / retention policy" with respect to the salary classification system in effect under the current collective bargaining agreement for the principal position, teachers of the Deaf and other appropriate professional educational personnel.

- Temporary and substitute staff -- As described earlier, the Bureau of Human Resources is working with the Baxter School to enhance the ability of school officials to hire substitute teachers, substitutes for other staff positions and temporary therapeutic and clinical service providers. The school board should continue to work with DAFS staff to designate an appropriate number of its currently-authorized positions as intermittent "project" or "limited period" positions so that the GBSD can provide therapeutic and clinical services for students in the current academic year. School officials should also work with the DAFS to prepare and submit a supplemental budget request for the upcoming biennium to the Governor that increases the full-time position headcount and provides the funds necessary to secure the number of intermittent positions necessary to provide an adequate level of temporary or substitute personnel staffing to meet the educational needs of GBSD students.

- Teacher qualifications -- Baxter School officials and teachers propose that nationally-recognized standards for teachers of Deaf and hard of hearing students may be more relevant than state certification standards, including the National Teacher Examination, in determining whether an individual is qualified to teach Deaf and hard of hearing students. According to state law

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and regulations, GBSD must hire teachers that have met the state standards for teacher certification. The Department of Education and State Board of Education should conduct a review of existing certification standards for teachers of the Deaf and other professional educational personnel, and may recommend any necessary changes in the certification of teachers of the Deaf and professional educational personnel. This review should examine the participation and performance of teachers of the Deaf on the National Teacher Examination. The review should also consider alternative certification standards and practices that may be appropriate for the teachers of the Deaf and other professional educational personnel (e.g., the Council for Exceptional Children (CEC) / Council on Education of the Deaf (CED) Joint Knowledge and Skill Statements for All Beginning Teachers of Students who are Deaf or Hard of Hearing in the "Deaf and Hard of Hearing Students: Educational Service Guidelines", National Association of State Directors of Special Education, 1994).

The school board and the Department of Education should work together with Gallaudet University, other postsecondary educational institutions for the Deaf and postsecondary educational institutions in Maine to develop a comprehensive plan that provides for the preparation and professional development of teachers of the Deaf and other professional educational personnel for the GBSD. The comprehensive plan may include the establishment of an agreement with Gallaudet University, the National Technical Institute for the Deaf or other postsecondary educational institutions for the Deaf to develop a distance-learning or outreach program for the training, development, recruitment or placement of teachers of the Deaf and other professional educational personnel who aspire to serve as administrators at the GBSD.

- Bi-lingual competencies -- The school board believes that to implement the bi-lingual, bi-cultural policy adopted for the GBSD, teachers of the Deaf and other appropriate educational personnel must be able to achieve competency in both ASL and the English language in order to provide quality educational programs and services for GBSD students. Many educators at the school do not possess appropriate bi-lingual competencies to effectively communicate with Deaf and hard of hearing students. The School Board should work with the DAFS to create an incentive program that provides a stipend to teachers of the Deaf and appropriate educational personnel for achieving ASL and English language proficiency standards established by the School Board.

2. That the budget system be revised to give the GBSD school board flexibility to move money around within its budget without legislative approval and that the board be authorized to submit a supplemental budget request to the Legislature at the beginning of the second year of the biennium.

Under current law and practice, the budget bill enacted by the Legislature specifies the number and type of staff positions that an agency may fill, the dollars that may be spent to pay for personal services, capital expenses and all other expenses. The GBSD school board is not authorized to increase or change the authorized staff positions, even if it has sufficient funds to support the change. Nor is it authorized to use unexpended funds in the "all other" account to pay for needed personal services.

This system is particularly difficult for the Baxter School. The need for specialized personnel to provide services to its students may not be known at the time the school submits its budget to the Governor, which is almost a year before the beginning of the school year to be funded by that budget. Although there are mechanisms within the current system for receiving approval for some changes within the system, the school board feels it is appropriate and necessary for them to be able to make such changes without delay. An amendment to the law allowing for flexibility with some or all of the budget would enable the school to govern the operations of the school more effectively.

The school board would also like specific authority to submit legislation at the beginning of the second year of the biennium to reflect changes needed for the next school year to meet the Individual Educational Program needs of Baxter School students. It is too difficult to plan 2 years ahead in a school budget without knowing how many students will attend the school, and the specific needs of those students who are designated as exceptional students under federal and state laws.

3. That a study group be established immediately to design a more autonomous governance system for the school, that resources be dedicated to helping the school develop capacity to be more autonomous, and that legislation creating the new governance system be developed for introduction to the Second Regular Session of the 119th Legislature.

The Governor Baxter School for the Deaf is a unique institution in Maine -- a state-funded school for the deaf and hard-of-hearing, with a statewide obligation and role to help local schools educate deaf and hard-of-hearing children and a critical role as the centerpiece of Deaf Culture in the State. To take best advantage of its unique features, the school needs a governance system and management powers that reflect the school's unique status.

Although the committee did not have time to propose a design for this unique system, it did endorse several principles to be met by the new governance system:

- A school board with legitimate authority to develop policy for the school that is consistent with State and federal laws and regulations;
- Lump sum budget with flexibility to transfer money as needed;

- Personnel not subject to the state personnel classification system;

- School board duty to negotiate directly with employee unions; and

- Employee benefits to be defined (e.g., health and retirement benefits).

The committee recommends that a group be formed immediately to define a new governance system and to help the Baxter School develop the capacity to implement a system that is more autonomous from the State than the current governance system. The group should be appointed by the Legislature, must represent all interested parties, must begin its work immediately and must report back to the Legislature by December 1, 1999.

The charge to the new committee would be to:

1. Define the basic structure of the new governance system and answer the questions: What does it mean for the school to have autonomy from state government? What are the roles and responsibilities of the school board, school administrators and state agencies? The answers to these questions will determine the extent to which the provisions in the existing Agreement for Administrative Assistance will need to renewed or renegotiated by the Department of Education and the GBSD School Board;

2. Identify the resources needed for the school board to develop the capacity to perform functions that the school would take over from state agencies, such as personnel and budget management functions. This may involve securing additional staff for the school to strengthen its personnel management capacity. If the GBSD School Board is to bargain directly with employee unions and is to address employee relations issues (e.g., grievance proceedings), the Baxter School must build the capacity to undertake these functions as well;

3. Develop a plan to address the recommendations from the Basic School Approval review and any other necessary reviews, such as a review of the residential program. The Department of Education is performing a Basic School Approval review process this year and will have results ready in January, 1999. Governance Review Committee members and members of the public stressed the need for a comprehensive review of the residential program at the school. A plan to address the results of these reviews should be developed and factored into the planning for transition to a new governance system;

4. Consult with GBSD employees and their representatives so that their interests can be taken into account in designing a new governance system. Employees have an interest in the potential for changes in salary, benefits and working

conditions. Planners must take into account existing employee rights under union contracts or state law that may impact the timing or scope of change that may occur at the school;

5. Develop strategies for properly managing state-owned facilities and the natural resources of the island. What role, if any, should state agencies play in managing school property and Mackworth Island? What improvements are needed in the school's physical plant, and who should make the improvements? The deed from Governor Baxter granting Mackworth Island to the State requires the island to be used and managed in a certain way. Should a state agency continue to be involved in managing the island or only in overseeing the school's compliance?;

6. Hire an impartial consultant to help the school, the Department of Education and other state agencies to redefine their roles and shift responsibilities;

7. Establish benchmarks to measure the school's progress toward a more autonomous governance system and require that the consultant, the school and the Department of Education make progress reports to interested parties, including the Legislative committee with jurisdiction over education matters. This gives interested parties an opportunity to give input on the change; and

8. Draft legislation to create the new governance system in Maine law. The legislation should be ready for submission to the Second Regular Session of the 119th Legislature, with an implementation date of July 1, 2000.

C. Other Proposals That Merit Further Review

The following proposals were forwarded as potential recommendations during the review committee meetings, but were not explicitly approved by the committee at its final meeting. Three of these proposals deal with the manner in which the school board members are appointed. The final proposal addresses the governance roles and responsibilities of the school board and state agencies in managing state-owned facilities and the natural resources of Mackworth Island.

- That the Governor's appointments to the GBSD School Board should be reviewed and confirmed by the Legislature.

- That GBSD employees should be allowed to become members of the school board, with restrictions on voting if necessary to avoid a conflict of interest.

- That the law setting forth the quorum required to approve school board actions and school board votes on the budget be amended to take into account vacancies on the board.

APPENDIX G

Excerpts from the GBSD Review Committee Basic School Approval Report and Updates by the Department of Education Re: Basic School Approval

Governor Baxter School for the Deaf

Review Committee Report

Maine Department of Education

Compiled by:
Edwin N. Kastuck, Ph.D.
Co-Chair, GBSD Review Committee

March 25, 1999

INTRODUCTION

The Governor Baxter School for the Deaf (GBSD) Board of Directors and Superintendent Roy Bishop III, requested that Commissioner of Education, J. Duke Albanese, dispatch a team to the school to conduct an inspection in accordance with Title 20-A, Section 258-A, for the purpose of addressing compliance with basic school approval regulations, and to provide recommendations for school improvement. A team was identified (see Attachment1) and a pre-inspection meeting was held at the school on Friday, November 13, 1998. The meeting included Roy Bishop III, Superintendent GBSD, Ms. Jane Hecker-Cain, Coordinator of Interpreter Services at GBSD, Dr. Edwin N. Kastuck and Ms. Ethel Macklin, of the Department of Education, Co-chairs of the inspection team (hereafter referred to as the Review Committee). The purpose of the meeting was to discuss the review schedule, to identify school approval and school improvement concerns, and to provide information to assist with the coordination of interpreters.

A comprehensive school review was conducted by the Review Committee on December 3-4, 1998 and included a review of the following:

1. GBSD Board documents
2. Special Education statistical information
3. Results from a statewide Special Education Director's questionnaire
4. Results from a parent questionnaire
5. GBSD Handbook
6. Curriculum and instructional materials
7. Report to the Commissioner of Education of the Review Team of Governor Baxter School for the Deaf – August 11, 1993

In addition, private interviews were conducted (12/3/98 & 12/4/98) with 89 adults, and 41 students. Telephone and TTY interviews were conduct by Dr. Edwin N. Kastuck after the on site review was conducted. An evening forum was held (12/3/98) at which 12 adults presented information pertaining to GBSD.

The following commendations, findings, and recommendations are based upon the review of GBSD documents, policies, statistics, and interviews in a process that engaged 142 people. The report, based on the aforementioned evidence, represents unanimous positions and conclusions of the Review Committee.

COMMENDATIONS

The Review Committee commends:

1. Members of the GBSD Administration, faculty, staff, student body, and parents, who without exception, were cordial and cooperative. They went beyond reasonable expectations in making information available to the Review Committee and were completely responsive to questions and comments during interviews. Special commendation for Ms. JoAnna Luksha, Academic Secretary and Ms. Jane Hecker-Cain Coordinator of Interpreters for GBSD, for their critical roles in assisting the Review Committee with the scheduling of interviews and interpreters.

2. The interpreters who demonstrated excellent interpreter services in a professional and personable manner.

3. Roy Bishop III, GBSD Superintendent for his concern, compassion, integrity, and expertise which are viewed as going a long way toward beginning genuine improvement of the conditions at GBSD. Superintendent Bishop stepped in at a time of crisis and has provided significant leadership.

4. The GBSD students who exhibited a significant degree of sophistication not commonly found among young people.

5. The impressive qualifications and abilities of the support staff, particularly those involved in the food service, security, and building maintenance programs, who make outstanding decisions deploying resources and staff.

6. The teaching staff for their dedication in spite of the administrative turnovers with four superintendents in the past five years.

7. The GBSD Board and Superintendent for requesting this review indicating their desire to create an exemplary program for students who are deaf and hard of hearing.

8. The well organized and strong volunteer program.

9. The Communication Garden (the program for preschool hearing children who are speech and language delayed), which clearly demonstrates that GBSD is focusing on community needs.

10. The members of the GBSD community who expressed a strong commitment to the education of students who are deaf and hard of hearing and the desire to see the institution resolve pressing issues and improve its programs.

11. Parents who, though critical of some of the GBSD programs and practices, expressed strong support for GBSD as a much-needed resource in the State and held out hope that the current activities by the State Legislature and the Department of Education would result in constructive change. They were particularly supportive of the Infant and pre-school

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CONCLUSION

SCHOOL APPROVAL

Given the significant deficits present in the current educational program at GBSD, the Commissioner should change GBSD's status from "Approval" to "Provisional Approval" as provided for in Chapter 125 Regulations Governing Basic School Approval, Section 125.28. The deficits include:

1. No school Principal;
2. The lack of a cohesive curriculum, instruction and assessment program including non-administration of the Maine Education Assessment;
3. The lack of a certified school guidance counselor and no comprehensive guidance program;
4. Certification issues that require review and clarification;
5. Concerns about the safety of the facility in terms of the fire alarm system and security practices;
6. Inadequate science laboratory facilities;
7. Classroom spaces that do not comply with maintaining a temperature and air exchange which provides a comfortable environment for employees and students;
8. Improper safety procedures concerning the use of protective eye wear in the science lab and industrial arts areas; and
9. Improper storage of student records.

Accordingly, as indicated in Section 125.28 Governor Baxter School for the Deaf shall be required to file with the Commissioner an acceptable written plan of corrective action. The date for submitting the plan shall be mutually agreed upon by the GBSD Board, the Superintendent and the Commissioner of Education.

The Commissioner should appoint a School Approval/School Improvement Technical Assistance Team to work jointly with the Board, administration, and all staff at GBSD to assist with the development of the corrective plan of action and subsequent measures required for GBSD to meet all school approval regulations in an expeditious manner.

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Governor Baxter School for the Deaf
School Approval Review Committee

Edwin N. Kastuck, Ph.D., Review Committee Co-Chair, Learning Systems Team, Department of Education

Ethel Macklin, Review Committee Co-Chair, Division of Special Services, Department of Education

Monique Culbertson, Curriculum Coordinator, Scarborough School Department

Karen Rumery, Regional Education Services Team Member, Department of Education

Donna Ford, Director of Special Education, Old Orchard Beach School Department

Richard Abramson, Superintendent, Arundel School Department

Robert Kennedy, Senior Consultant, Spurwink School

Jody Rich, Teacher of the Deaf, George Mitchell School, Waterville

Elaine Tomaszewski, Director of Special Education, Falmouth School Department

Rob Welch, Principal, Oxford-Cumberland Canal School, Westbrook

Dr. Victor Galloway, Chief, Deafness and Communicative Disorders, Rehabilitation Services Administration, U.S. Department of Education, Beltsville, Maryland

Doin Hicks, Deaf Education Private Consultant, Deale, Maryland

GOVERNOR BAXTER SCHOOL FOR THE DEAF

SCHOOL APPROVAL UPDATE
September 10, 1999

Presented by the Maine Department of Education
and the
Governor Baxter School for the Deaf

FACILITIES

1. **Finding** (Page 4)

Despite the considerable improvements that have been made to the physical plant, the campus buildings run the gamut from new and beautiful to old and in need of significant repair. The Middle School and High School are in dire need of renovations. Of additional concern is the lack of a contemporary, comprehensive campus wide fire alarm system. Numerous security concerns exist at GBSD and on Mackworth Island in general.

Action to date:

a. GBSD has developed a daily/weekly/monthly maintenance checklist. The GBSD Business Manager is monitoring the checklist.
b. In July 1999, DOE staff toured the facility in order to gain a more complete understanding of the physical plant needs.
c. A "Safety Works" report was presented to GBSD from the Dept. of Labor in late August 1999. Meetings have been scheduled to discuss the findings and recommendations.
d. The contract with an outside consultant will include assistance with a compilation of all health, fire and safety inventories. This compilation action will involve staff from DOE, Dept. of Labor, and the Bureau of General Services. Once compiled, an action plan will be developed which addresses deficiencies and identifies resources required for compliance. Safety and security on the island will be the top priority. This may include the formation of a rapid response team from each department and GBSD staff to assure immediate action.

CURRICULUM, INSTRUCTION, AND ASSESSMENT

1. **Finding** (Page 5)

There is no consistent curriculum at GBSD.

Action to date:

The GBSD administration has recommended to adopt the curriculum utilized by the Falmouth School Department. The technical assistance contract with an outside consultant will include the following: 1. Development of a plan to adopt, adapt, and apply the Falmouth curriculum to the GBSD program. This will include meetings with Falmouth education personnel to explore professional development opportunities for GBSD staff. Actions to be taken include opportunities for GBSD staff to observe the curriculum in practice in Falmouth schools;

meetings with Falmouth teachers and administrators to discuss techniques employed to utilize the curriculum. The plan will also include opportunities for GBSD staff to become directly involved in the adoption, adaptation, and application process. The professional development needs of GBSD staff will be assessed in order to determine training required for meeting the goals and objectives of the curriculum adoption plan. The parents and GBSD Board will be kept informed and involved in the curriculum adoption process.

2. Finding (Page 5)

Course offerings are too limited and offer little support for student aspirations.

Action to date:
This will be addressed in the GBSD school approval action plan presently being developed by the GBSD teaching principals and the DOE Technical Assistance Team.

3. Finding (Page 6)

Teachers and parents expressed concerns about the low literacy rate of the GBSD students. Parents and staff reported that the reading levels are often far below expectations.

Action to date:
The technical assistance contract with an outside consultant will include assistance with the designing and implementation of a comprehensive K-12 literacy program. Special emphasis will be placed on the middle and secondary level programs. The program will include assessment, implementation strategies, and an on-going evaluation process. All GBSD staff will be involved so the literacy improvement practices will be applied in the school, residential program, and at home.

4. Finding (Page 6)

One hundred percent (100%) of the students at GBSD are exempt from taking the Maine Education Assessment (MEA). In general, the assessment of the *Learning Results* in the form of specific knowledge (what students should know) and skills (what students can do) does not appear much in evidence. GBSD is conducting some assessment, but as with curriculum, not always in ways which are consistent, easily quantified, and applicable to known and accepted standards.

Action to date:
The MEA Study Committee comprised of GBSD staff, DOE staff, field educators and parents was formed in July. The initial meeting was held on August 19, 1999. The Committee will survey all Directors of Special Education and 504 Directors to determine the number of deaf and hard of hearing students who have taken the test; what special accommodations were utilized; review and analyze the results; determine how many of the students fitting this description have been exempted from taking the MEA; and on what grounds exemption was made. The scope of the Committee is focused on GBSD and statewide.

The GBSD teaching principals have identified those students they believe should take the MEA. In addition, plans are to provide training for the faculty who will be administering the MEA. An initial informational session was held at GBSD on August 26, 1999 as part of the staff development program at GBSD. Additional faculty members still require general MEA training in order to understand the application of assessment to instruction and curriculum.

5. **Finding (Page 7)**

In general, the instructional materials on display for the Review Committee were current. Subject areas, such as secondary level math, were of concern.

Action to date:
The GBSD School Approval Action Plan will include having the staff conduct an inventory of instructional materials. This will be shared with DOE staff for comment and suggestions. In addition, the present system for acquisition of instructional materials will be reviewed with the DOE Technical Assistance Team. A plan for upgrading the acquisition process and for upgrading instructional materials will be included in the School Approval Action Plan.

PROFESSIONAL DEVELOPMENT

1. **Finding (Page 7)**

The need exists for a clear, focused plan regarding professional development. The present system appears to lack organization and effectiveness. There has been a significant investment in technology (hardware and software)) without an equal investment in training all staff in the effective and efficient use of the new technology.

Action to date:
The GBSD School Approval Plan will include a review of the present professional development system at GBSD. The DOE Technical Assistance Team will provide recommendations which ensure that the professional development program reflects the best practices of professional development currently employed in Maine and nationwide.

PROGRAMMING

1. **Finding (Page 8)**

Some of the students interviewed who had transferred from Maine public schools expressed concerns about having to take courses at GBSD that they had already taken at their previous schools. There was also concern that some GBSD students might not have the requisite skills to succeed in public school classrooms.

Action to date:
The GBSD School Approval Action Plan will include the following:

a. Identification of instructional programs in use statewide grades K-12. Program information will be reviewed with all GBSD educational staff for the purpose of alignment of the GBSD instructional programming.

b. Those students who no longer attend GBSD will be tracked by the guidance counselor and the outreach program to ascertain levels of success in public schools including social and academic readiness .The results will be used to improve the GBSD program.

2. Finding (Page 9)

The Outreach Program works diligently to provide quality services to 340 students and their families around the state. Each educator has approximately sixty-five families spread over a large geographical area.

Action to date:
The GBSD Outreach Coordinator has developed two options for consideration for comprehensive program modifications and improvement. These will be included in the GBSD School Approval Action Plan.

3. Finding (Page 9)

GBSD does not have a certified guidance counselor and there is no comprehensive guidance program.

Action to date:
A candidate for the position has been identified. The employment documentation has been submitted to the DOE personnel office for approval. The target date for employment is October1, 1999. A comprehensive guidance and counseling program plan will be submitted to the DOE Technical Assistance Team.

4. Finding (Page 10)

It was reported that arranging field trips to local points of interest is nearly impossible. It should be noted that the sports schedule includes long distance trips to locations such as New Jersey and Rochester, New York.

Action to date:
A review of field trip protocols will be included in the GBSD School Approval Action Plan. The DOE Technical Assistance Team will make recommendations for improvements and program modifications.

5. Finding (Page 10)

Educational programming at GBSD does not appear to be based on an integrated curriculum, supported by assessment data, which is used to develop and improve instruction.

Action to date:
The technical assistance provided by an outside consultant and the recommendations from the MEA Study Committee will be applied to the overall assessment process at GBSD. Professional development needs of the GBSD staff will be included. Recommendations for action will be included in the GBSD School Approval Action Plan.

PERSONNEL-CERTIFICATION

1. Finding (Page 11)

Of the 17 teaching staff at GBSD, only eight have the required K-12 endorsement Teacher of Students Who Are Deaf or Who Have Hearing Impairments.

Action to Date:
The technical assistance contract with an outside consultant will include conducting an overall inventory of all GBSD positions. The licensing requirements and hiring practices at GBSD must be aligned. This will be a non-regulatory review. The DOE Division of Certification will conduct a review of licensing requirements for the GBSD education program, and consider licensing requirements currently employed in other deaf education settings.

2. Finding (Page 11)

It was reported that some of the faculty had not been monitored and /or evaluated for years.

Action to date:
The technical assistance contract with an outside consultant will include a review of performance based evaluation systems employed in residential school settings and the application to the GBSD. Professional development requirements for implementation and adoption will be identified.

SPECIAL EDUCATION AND 504 STUDENTS

1. Finding (Page 12)

Individual Education Programs (IEPs) do not appropriately address the unique learning needs of the GBSD student. Identical goal statements and related objectives appeared in multiple IEPs.

Action to date:
The technical assistance contract with an outside consultant will include a process for clarifying and identifying appropriate applications of Federal and state regulations. This will include informational sessions for staff, classroom observations of instructional practices to determine IEP application, attendance at PET meetings (where approved) and a review of IEP development.
Professional development needs of GBSD staff regarding special education policies, procedures and practices will be assessed and used to plan appropriate training.

2. **Finding** (Page 12)

There appears to be confusion among school units as to the process used for ensuring that the procedural guarantees set forth in law are carried out (e.g., what are the shared responsibilities regarding P.E.T. minutes, IEP development and distribution, evaluations).

Action to date:
See above reference to the technical assistance contract with an outside consultant.

3. **Finding** (Page 13)

Interview results indicated that there is a question about whether students attending GBSD should be identified with disabilities under special education or identified under Section 504 of the Rehabilitation Act of 1973.

Action to date:
Meetings will be coordinated with DOE special education staff to inform staff of appropriate application of state and Federal regulations. The initial meeting will take place during the month of October 1999.

4. **Finding** (Page 14)

Conflicting information was received regarding the provision of supportive services. The question raised was whether GBSD or the sending school unit is responsible for the provision of supportive services.

Action to date:
The DOE will provide the GBSD staff with a position that should be followed. The position will be presented in an informational meeting to take place during October 1999.

CONCLUSION

SCHOOL APPROVAL

Given the significant deficits present in the current educational program at GBSD, the Commissioner should change GBSD's status from "Approval" to "Provisional Approval" as provided for in Chapter 125 Regulations Governing Basic School Approval, Section 125.28. The deficits include:

1. No school Principal;

Action to date:
Two teaching principals have been hired. One will be for the elementary grades and the other for the middle and secondary levels.

2. The lack of a cohesive curriculum, instruction and assessment program including non-administration of the Maine Education Assessment;

Action to date:
See earlier references to curriculum adoption and the MEA Study Committee.

3. The lack of a certified school guidance counselor and no comprehensive guidance program;

Action to date:
See earlier reference to the filling of the guidance position and the development of a comprehensive guidance and counseling plan.

4. Certification issues that require review and clarification;

Action to date:
See earlier references to an outside consultant technical assistance contract and the DOE Division of Certification review.

5. Concerns about the safety of the facility in terms of the fire alarm system and security practices;

Action to date:
See earlier reference to facilities.

6. Inadequate science laboratory facilities;

Action to date:
The DOE Technical Assistance Team will conduct a comprehensive inventory of the science lab on September 24, 1999. GBSD will be required to develop (with DOE assistance) an action plan for upgrading the science labs as soon as possible.

7. Classroom spaces that do not comply with maintaining a temperature and air exchange which provides a comfortable environment for employees and students;

Action to date:
See earlier reference to facilities.

8. Improper safety procedures concerning the use of protective eye wear in the science lab and industrial arts areas;

Action to date:
The DOE Technical Assistance Team has met with the GBSD Business Manager and instructed him to order the appropriate ultraviolet sanitizing unit and have it installed immediately.

9. Improper storage of student records.

Action to date:
The GBSD has purchased fireproof files and is presently placing all student records in them.

Accordingly, as indicated in Section 125.28 Governor Baxter School for the Deaf shall be required to file with the Commissioner an acceptable written plan of corrective action. The date for submitting the plan shall be mutually agreed upon by the GBSD Board, the Superintendent and the Commissioner of Education.

Action to date:
GBSD staff members and Superintendent submitted proposed actions to DOE in early July 1999. It was determined that the actions required modification. In order to ensure plan ownership and relevance, Edwin N. Kastuck, Chairman, DOE Technical Assistance Team, is working with the GBSD Superintendent and teaching principals on plan development and revision. The target date for submitting a finalized plan to the Commissioner of Education is on or before October 15, 1999.

The Commissioner should appoint a School Approval/School Improvement Technical Assistance Team to work jointly with the Board, administration, and all staff at GBSD to assist with the development of the corrective plan of action and subsequent measures required for GBSD to meet all school approval regulations in an expeditious manner.

Action to date:
The Commissioner of Education has appointed Dr. Edwin N. Kastuck, DOE Learning Systems Team, to chair the DOE Technical Assistance Team. Additional team members to date include:

Ms. Karen Rumery, DOE Regional Education Services Team
Ms.Ethel Macklin, DOE Division of Special Services

Additional field specialists and DOE specialists will be involved in all phases of the school approval process at GBSD.

Final Note: The technical assistance contract with an outside consultant will include the planning of a three day intensive retreat exercise for all GBSD staff. The purpose is to develop a commitment to common understandings, beliefs, and actions in the improvement of the education, residential, and outreach programs at GBSD. The program is scheduled for November 22-24, 1999.

APPENDIX H

GBSD Per Pupil Costs

Governor Baxter School for the Deaf

	1995-96	1996-97	1997-98	1998-99
Operational Per Pupil Costs	$4,150 (373)	$4,843 (417)	$3,901 (413)	$3,198 (499)
Academic Per Pupil Costs	$19,546 (56)	$17,578 (66)	$19,881 (66)	$20,231 (62)
Residential Per Pupil Costs	$9,028 (28)	$12,411 (26)	$13,613 (33)	$17,547 (26)

Note: The number in the parenthesis is the number of students served.

Governor Baxter School for the Deaf

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MEMORANDUM

October 19, 1999

To: Sharon Treat, Task Force Co-Chair
Elizabeth Watson, Task Force Co-Chair

From: Roy P. Bishop III, Superintendent

Re: GBSD Expenditures

In light of the information provided by the State Budget Office, the GBSD Business Services Manager and questions posed by members of the Task Force at the October 1st Meeting, I decided to research the question raised about the Therapy and Evaluation Services cost center and examine more closely the expediture report provided by the Budget Office.

First, I determined that the major reasons for the dramatic change in Therapy and Evaluation Services cost center was because of the impact of the Productivity Task Force, a redesign of the GBSD structure by Superintendent Ray Parks and the frequent changes in leadership at GBSD which changed superintendents four times from 1995-1999.

Finally, I reviewed the State Budget Office's expenditure report. I decided that the report should be broken down to reflect the total number of students served by GBSD programs. I identified the specific operational costs associated with GBSD which support all programs. These cost centers include Administration, Interpreting Services, School Board, Shared Costs, Staff Development and Support Services. I then took the total of these cost centers and divided it by the total number of students served by all GBSD programs to arrive at a per pupil cost based on the total operational expenditures. These figures are listed on the attached sheet along with the per pupil costs associated with both the Academic and Residential Programs.

APPENDIX I

Explanation of Personnel Matters at the Baxter School

Personnel Matters

1. What role does each state agency play in personnel matters at the GBSD?

Governor/ State Legislature

The Maine Legislature must authorize the number of positions to be filled at the GBSD and the funding for the positions. Generally, the positions are requested by the Governor in the budget bill presented to the Legislature at the beginning of the biennium. (In January or February immediately following the November general election). Positions that were authorized in budget bills of prior years are generally continued without a great degree of scrutiny, but additions or changes to the personnel roster of an agency are scrutinized more carefully during the legislative process.

The Governor or a legislator may also introduce legislation (other than a budget bill) to add or change personnel authorizations.

Even if the Legislature approves a bill authorizing changes in positions, the bill authorizing such a change must also be signed by the Governor.

Governor Baxter School Personnel Department

The GBSD Personnel Department directly hires teachers, administrators and other professional staff. This means that the school advertises the position, evaluates candidates and makes hiring decisions without assistance from the Bureau of Human Resources and without utilizing the eligibility lists and competitive hiring practices under civil service law. (The positions must first have been classified and allocated to a pay range by the Bureau of Human Resources before being added to the budget and approved by the Legislature).

Clerical, custodial and other support staff are hired through the competitive civil service system. This means that the school must use the list of eligible personnel developed by the Bureau of Human Resources.

Once hired, staff are evaluated by GBSD, using a standard personnel evaluation procedure established by the state. Discipline and other staff oversight is performed by the school, consistent with civil service law and any applicable union contracts. Grievances under the union contract are first considered by the superintendent, and if not resolved at that level, are next handled by the Department of Education, then the Bureau of Employee Relations, if necessary.

Department of Administrative and Financial Services (DAFS)

Bureau of Human Resources -- This bureau in the DAFS classifies each position in state government and allocates the position to a pay range in the state compensation plan. The classification and compensation plans are comprehensive plans designed to ensure an equitable classification and pay across all state government agencies and entities. For classified service employees (competitive hiring), the bureau tests and evaluates applicants, maintains list of eligible applicants and submits a list of eligible applicants to the department that needs to fill a staff opening.

The Bureau of Human Resources also provides management training, administers state employee benefit programs, and assists in resolving disputes under affirmative action.

Bureau of Employee Relations -- This bureau in DAFS negotiates contracts with employee unions on behalf of the governor and advises state agencies of the requirements under the union contracts.

Department of Education

The Department of Education works to resolve grievances between the school and union members over rights under the union contract. The Department becomes involved only if the issue cannot be resolved at the school itself.

The Department of Education also sets general rules regarding teacher certification and other personnel requirements under general law.

EXAMPLES OF HIRING PROCESSES

	CLASSIFIED, COMPETITIVE HIRE POSITIONS (clerical, custodial, support)	**UNCLASSIFIED POSITIONS** (teachers, professionals and administrators)
Budget request	GBSD submits its budget request to the Governor, requesting an additional support staff position.	GBSD submits its budget request to the Governor, requesting an additional support staff position
Classification and Allocation	The position is already classified as, e.g., "Clerical III", and allocated to pay range \$18,500 to \$23,000	The position is already classified as, e.g., "Educator III", and allocated to pay range \$23,500 to \$37,000
Budget request	The Governor decides to include GBSD's request in his budget request to the Legislature	The Governor decides to include GBSD's request in his budget request to the Legislature
Legislative Approval of Budget	The Legislature approves the additional position and approves funding to hire the person	The Legislature approves the additional position and approves funding to hire the person
Competitive Hiring System	GBSD contacts the Bureau of Human Resources to request a list of eligible applicants for the position	
Competitive Hiring System	The Bureau of Human Resources sends the eligibility, list, which is comprised of the names of all persons whose qualifications meet the qualifications needed for the position	
Hiring Decision	GBSD makes the hiring decision, consistent with civil service laws	GBSD advertises the position, receives and evaluates applications and makes the hiring decision

2. *What flexibility does GBSD currently have to meet staff needs?*

Reclassification or Reallocation of Positions

The school may ask the Bureau of Human Resources to reclassify a position or reallocate it to a different pay range if the school believes the duties of the position have increased sufficiently to justify a change.

Contracting Out

GBSD has the same ability and limitations regarding contracting for personal services as any other state agency. State law allows for personal services contracting under certain circumstances, including when:

> **Maine Revised Statutes, Title 5, §1816-A, sub-§1**
>
> A. The services contracted are not currently available within a state agency, can not be performed satisfactorily by civil service employees or are of such a highly specialized or technical nature that the necessary expert knowledge, experience or ability is not available through the civil service system.
>
> C. The legislative, administrative or legal goals and purposes can not be accomplished by using persons selected pursuant to the civil service system. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings when there is a clear need for a different outside perspective.
>
> D. A state agency needs private counsel because a conflict of interest on the part of the Department of the Attorney General prevents it from representing the agency without compromising the agency's position. A contract entered into under this condition requires the written consent of the Attorney General.
>
> F. The contractor conducts training courses for which appropriately qualified civil service instructors are not and can not be made available.
>
> G. The services are of such an urgent, temporary or occasional nature that the delay incumbent in implementation under civil service would frustrate the purpose.
>
> H. The contracting agency demonstrates a quantifiable improvement in services that can not be reasonably duplicated within existing resources.
>
> **2. Conditions; cost savings.** Personal services contracting is permissible to achieve actual cost savings when all the following conditions are met.
>
> A. The contracting agency clearly demonstrates that the proposed contract would result in actual overall cost savings to the State as long as, in comparing costs:
>
> > (1) The State's costs of providing the same service as proposed by a contractor are included. These costs must include the salaries and benefits of additional staff that

would be needed and the cos [illegible] ditional space, equipment and materials needed to perform the service; and

(2) Any continuing state costs directly associated with a contractor providing a contracted function are included. These continuing state costs include, but are not limited to, those costs for inspection, supervision, monitoring and any pro rata share of existing costs or expenses, including administrative salaries and benefits, rent, equipment costs, utilities and materials.

B. The contract does not adversely affect the State's affirmative action efforts.

C. The contract is awarded in accordance with section 1825-B.

D. The contract includes specific provisions pertaining to the qualifications of the staff that is to perform the work under the contract, as well as a statement that the contractor's hiring practices meet applicable affirmative action and antidiscrimination standards.

E. The potential for future economic risk to the State from potential rate increases or work interruptions by the contractor is minimal.

F. The contract is with a firm or a licensed, registered or otherwise professionally qualified individual. For the purposes of this section, "firm" means a corporation, partnership, nonprofit organization or sole proprietorship.

G. The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by State Government.

H. The contract does not contain standards of performance or employee qualifications lower than existing state standards or minimum qualifications.

3. Contract information retained. Departments or agencies submitting proposed contracts shall retain all data, including written findings, relevant to the contracts and necessary for a specific application of the standards set forth in subsections 1 and 2.

Employee union contracts may also impact contracting out for services. The AFSCME and MSEA contracts provide that certain steps must be taken if the department contracts out for services that are normally performed by employees within the union bargaining unit (MSEA), or the contracting out results in a layoff of an employee who performs the function (AFSCME).

Personal services contracts must be awarded through a competitive bidding process, except under limited circumstances (small amount contracts, sole-source contracts and emergencies). The contract generally must be given to the "best-value" bidder.

Recruitment and Retention Stipends

Current law allows a department to pay a salary higher than that to which a position is allocated by he Bureau of Human Resources under certain conditions.

Maine Revised Statutes, Title 5, §7065, sub-§2-D

2-D. Recruitment and retention adjustments. Subject to this subsection, the director, with the agreement of the bargaining agent, if applicable, may approve payment of recruitment and retention adjustments when the payment of a labor market adjustment is required to recruit and retain an adequate work force.

A. Payment of a recruitment and retention adjustment may be authorized only when justified by the following conditions.

(1) High turnover exists or long-term vacancies exist within State Government in the relevant occupational classifications or job series.

(2) The relevant occupational classification or job series has a clear, geographically definable labor market within which the State must compete.

(3) All appropriate recruitment and retention efforts have been attempted and have proven ineffective at the current levels of compensation.

(4) Comprehensive, verifiable documentation of labor market compensation levels for the relevant occupation has been compiled to determine competitive pay levels within the defined labor market. This documentation must demonstrate that a labor market disparity exists and that the disparity represents a long-term, not transitory or seasonal, problem.

B. The labor market adjustment must be reviewed at least every 2 years and adjusted to changes in the labor market or the overall relation of the standard pay policy to the specialized labor market. If the subsequent review provided in this paragraph results in the adjustment being decreased or discontinued, an employee receiving the recruitment and retention adjustment may not be subject to a reduction in pay.

C. To assist the director in making a determination under paragraphs A and B, a committee must be formed to evaluate each request from an agency or bargaining agent for a recruitment or retention adjustment. The committee must be composed of a representative of the bureau, a representative of the employing agency or agencies and a representative of the bargaining agent, if applicable. The committee shall evaluate the request against the criteria specified in paragraphs A and B and shall conduct studies as the committee considers necessary to evaluate the request. The committee shall, by majority vote, provide the director, the agency and the bargaining agent, if applicable, with a report recommending and documenting adjustments authorized under this subsection. The director, the agency and the bargaining agent, if applicable, shall act on this report. If a funding request is necessary to implement an approved adjustment, the director shall submit the cost items for inclusion in the Governor's next operating budget within 10 days after action on the report.

Other Budgetary "Tricks of the Trade"?

APPENDIX J

Explanation of School Board Membership on the GBSD School Board

School Board Membership

This information relates to membership and appointments to the School Board of GBSD. The following concerns were raised: (1) that positions on the board had remained vacant for a long time, making it difficult for the board to conduct business; and (2) that more of the members should be persons who are deaf or hearing impaired.

School Board Vacancies

1. What is the process by which the governor solicits names for appointment to the School Board?

I spoke with Cheryl Ring, the staff person in the Governor's office who is currently handling appointments. She says that the governor generally relies on advice from the Commissioner of the Department concerned, in this case the Department of Education. They also received suggestions from some current board members.

In the process of considering appointments, the governor's office reviews resumes, interviews potential candidates, and seeks people who:

(1) meet the very specific statutory criteria;
(2) have an understanding of deaf issues; and
(3) have the time and willingness to serve on the board.

2. Is there a law or any other provision that requires the Governor to appoint School Board members within a certain amount of time after the position becomes vacant?

Current law required the Governor to make initial appointments by a certain date (September 1, 1996), but does not require later appointments to be made within a specific period of time after the position becomes vacant.

It would be possible to amend the law to require that appointments be made within a certain period of time, but if the Governor fails to comply, there is no way to enforce such a requirement. The Maine Supreme Court has ruled that the court has no power to order the Governor to take certain actions, even actions required by law. Kelly v. Curtis, 287 A.2d 426 (Me.1972) This ruling results from the need to protect the integrity of the three co-equal branches of government—the executive, legislative and judicial branches. No branch has authority to order the other to take a certain action. The only real enforcement mechanisms are impeachment, which seems unlikely, and the use of the ballot box at the next election.

Composition of the School Board

1. ***What is the composition of the school board that governs the math and science magnet school, as compared to the GBSD?***

Type of member	**Governor Baxter School for the Deaf School Board**	**Maine School of Science and Mathematics Board of Trustees**
Total Membership	13 voting members 2 nonvoting members	17 voting members; 2 nonvoting members
Parents	3 parents of students who attend the school 1 parent of a child receiving outreach services in a local school	
Students	2 GBSD students (non-voting)	One student, elected as presiding officer of the student body
Constituent Group Representatives	3 representatives of the deaf community	
Educational Experts. State agencies	2 individuals with expertise in deaf education (not employed by the school)	Commissioner of Education Chancellor of the University of Maine System President of the Maine Technical College System President of the Maine Science and Technology Foundation
Local Representatives		Chair of the Limestone School Board 1 citizen of Limestone with an active interest in

		education
General Public	4 members of the general public	8 members of the general public, at least 5 of whom must be scientists, engineers or mathematicians employed within the business or industrial community, one of whom must have expertise in instructional TV, appointed by the Governor and subject to review by the legislative committee on education and subject to confirmation by the Legislature
Others		3 teachers (1 employed by the school, who is a nonvoting member; and 2 others who are not employed by MSSM and are voting members) Superintendent of the school, who is a nonvoting member

APPENDIX K

Examples of State Entities with Some Degree of Independence

Examples of State Entities with Some Degree of Independence

<table>
<tr><th colspan="5">Finance Authority of Maine (FAME)</th></tr>
<tr><td>"body politic and corporate", "public instrumentality of the State"</td><td>Governed by a 15-member Authority; 12 members are appointed by the Governor and the other 3 are commissioners</td><td>Personnel -- FAME employs staff; staff are not subject to Civil Service; staff serve at the pleasure of the CEO, who is nominated by the Governor and confirmed by the Legislature</td><td>Budget -- FAME is subject to the state budget process set forth in Title 5, chapter 11; FAME submits an annual report to the Governor and Legislature; annual financial report must be certified by an independent CPA</td><td>Freedom of Access Law Applies to FAME
Maine Tort Claims Act -- ??
Administrative Procedures Act -- Applies to FAME</td></tr>
<tr><th colspan="5">Maine State Retirement System (MSRS)</th></tr>
<tr><td>"body corporate and politic", "incorporated public instrumentality"</td><td>Governed by an 8-member Board of Trustees, nominated by various parties and confirmed by the Legislature</td><td>Personnel -- Executive Director employs personnel as necessary in accordance with Board policy; Board determines its own policies with regard to personnel and payroll.
Collective bargaining agreements between MSRS and employees must be approved by the Legislature</td><td>Budget -- Board of Trustees submits an administrative operating budget to the Legislature; the Legislature allocates funds for specific uses, but the Board may transfer funds among allocations; Transfers are subject to review by the legislative committee with jurisdiction over retirement matters and Board must file financial</td><td>Freedom of Access -- ?? presume that it applies
Maine Tort Claims Act -- Applies to MSRS
Administrative Procedures Act -- presume it applies
Labor relations -- covered by the Municipal Public Employees Labor Relations Act</td></tr>
</table>

		(See transition language attached for information on impact on MSRS employee who moved from the state system to MSRS as an independent agency)	statement describing transfer with the Legislature's Office of Fiscal and Program Review	
Maine School of Science and Mathematics				
"public chartered school", "body politic and corporate", "instrumentality and agency of the State"	Governed by a 17-member Board of Trustees, including 3 teachers appointed by the Governor, 8 public members appointed by the Governor and confirmed by the Legislature, and others who are members by virtue of positions in education, higher education, local representatives and students	Personnel -- MSSM personnel are not subject to Civil Service or to State certification of teachers; the MSSM Board certifies its own staff Personnel are included in the state retirement system, but are not included in state health insurance plan (they have a separate plan) MSSM hires its own attorney, but is able to use services of the Attorney General's office as needed	Budget -- MSSM submits a separate budget request to the Legislature (for comparison to the budget proposal of the Governor) MSSM gets a lump sum budget, so they can use the money as they see fit. They provide a detailed breakdown if requested in the budget process. They also provide quarterly reports to the Legislature and Governor.	Freedom of Access law -- Applies Maine Tort Claims Act -- Applies Administrative Procedures Act -- Applies Labor relations --?? -- presume Municipal Public Employees Labor Relations Act applies